

RAJASTHAN MONUMENTS, ARCHAEOLOGICAL SITES AND ANTIQUITIES ACT, 1961

19 of 1961

[22nd June, 1961]

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RAJASTHAN MONUMENTS, ARCHAEOLOGICAL SITES AND ANTIQUITIES ACT, 1961

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PREAMBLE An Act to provide for the preservation, protection, upkeep, maintenance, acquisition and regulation of, and control over, ancient and historical monuments, archaeological sites and antiquities in the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Twelfth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961. (2) It extends to the whole of the State of Rajasthan. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the subject or context otherwise requires,- (i) "ancient or historical monument" means any archaeological building, structure, erection or monument or any tumulus, tomb or

place of interment or any cave, rock-sculpture, rock-painting or sculpture of or on stone, metal, terracotta or other immovable object or any inscription or monolith, which is of historical, archaeological or artistic importance, interest or value, and includes - (a) any remains thereof, (b) the site thereof, (c) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance of the same, and (d) the means of access thereto and of convenient inspection and repairs thereof; but does not include an ancient monument as defined in the Central Act, to which the provisions of that Act apply for the time being; (ii) "antiquity" means - (a) any coin, sculpture, epigraph, manuscript, record, document, picture, painting, printed matter or other work of art or craftsmanship, (b) any article, object or thing of historical, archaeological or artistic importance, interest or value, detached from a protected monument or collected from or discovered in a protected area; (c) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages, and (d) any other article, object or thing of historical, archaeological or artistic importance, interest or value, and includes any article, object or thing which the State Government may, by notification in the Official Gazette, declare, by reason of its historical or archaeological association, to be an antiquity for the purposes of this Act but does not include an antiquity as defined in the Central Act, to which the provisions of that Act apply for the time being; (iii) "archaeological officer" means an officer, of the Department of Archaeology of the State Government not below such rank as the State Government may from time to time prescribe; (iv) "archaeological site" means any mound indicating ancient habitation or any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance, interest or value and includes - (a) any remains thereof, (b) the site thereof, (c) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance thereof, and (d) the means of access thereto and of convenient inspection, repairs and excavation thereof, but does not include an archaeological site and remains as defined in the Central Act, to which the provisions of that Act apply for the time being; (v) "Central Act" means the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958) as amended from time to time; (vi) "Director" means the Director of Archaeology and Museums of the State and includes any officer appointed by the State Government

to perform the duties of the Director under this Act; (vii) "maintain", with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleaning of an ancient or historical monument, an archaeological site or an antiquity or the doing of any act which may be necessary for the preservation, protection, upkeep or regulation of such monument, site or antiquity, or for securing convenient access thereto; (viii) "owner" used with reference to an ancient or historical monument, archaeological site or antiquity includes - (a) a joint owner invested with powers of management of or over such monument, site or antiquity on behalf of himself and other joint owners and the successor-in-title of any such owner, and (b) any manager or trustee exercising powers of such management and the successor-in-office of any such manager or trustee; (ix) "Prescribed" means prescribed by rules made under this Act; (x) "Protected" when used with reference to an ancient or historical monument or an archaeological site, means such monument or site which may be declared by the State Government under section 3 to be a protected monument or a protected area; and (xi) "Protected antiquity" means an antiquity declared by the State Government under section 3 to be a protected antiquity and includes any article, object or thing referred to in sub-clause (b) of clause (ii).

3. Power to declare monuments etc. to be protected :-

(1) The State Government may declare for the purposes of this Act - (i) any ancient or historical monument to be a protected monument, or (ii) any archaeological site to be a protected area, or (iii) any antiquity to be a protected antiquity. (2) Before making any such declaration as is referred to in sub-section (1), the State Government shall, by notification in the Official Gazette give two month,s notice of its intention to do so and a copy of such notification along with a statement of the reasons for which such declaration is proposed to be made, shall be affixed in a conspicuous place at or near the ancient or historical monument or the archaeological site which is proposed to be declared as protected or on or near the place where or in which such monument or the antiquity proposed to be declared as protected is for the time being. (3) Any person interested in any such monument, archaeological site or antiquity may, within two months after the publication of such notification in the Official Gazette, object to the proposed declaration. (4) On the expiration of the said period of

two months the State Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette - (i) an ancient or historical monument to be a protected monument, or (ii) an archaeological site to be a protected area, or (iii) an antiquity to be a protected antiquity. (4A*) Notwithstanding anything contained in Sub-Sections (2) and (3), where the State Government is satisfied with respect to any monument, archaeological site or antiquity, that there is immediate danger of its removal or destruction, it may instead of proceeding under the said subsections, by Notification in the official Gazette and for reasons of its satisfaction to be recorded in such notification, forth with make a declaration under clauses (i), (ii) or (iii), as the case may be, of subsection (4) in respect of any such monument, archaeological site or antiquity: Provided that any person interested in any such monument, archaeological site or antiquity may within two months after the publication of such notification object to the declaration so made and the State Government after giving to such person an opportunity of being heard, may by order in writing dismiss the objection or withdraw the notification."; and (ii) in sub-section (5), after the expression "under sub-section (4)", the expression "or under sub-section (4A)" shall be inserted. * Inserted by Law Department Notification No. F.2(48)Vidhi/75 dated 24 January, 1976. (Published in Exo. Gazette dt. 24.1.1976.

4. Repeal and savings :-

(1) The Rajasthan Monuments, Archaeological Sites and Antiquities (Amendment) Ordinance, 1975 (Rajasthan Ordinance No. 29 of 1975) is hereby repealed. (2) Notwithstanding such repeal, anything done or action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

5. Section 5 :-

A notification published under sub-section (4) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient or historical monument, archaeological site or antiquity to which it relates is a protected monument, a protected area or a protected antiquity for the purposes of this Act.

CHAPTER 2

PROTECTED MONUMENTS

6. Acquisition of rights in or guardianship of a protected

monument :-

(1) The director may, with the sanction of the State Government, purchase or take a lease of, or accept a gift or bequest of any protected monument. (2) Where a protected monument is without an owner, the Director may, by notification in the Official Gazette, assume the guardianship of such monument. (3) The owner of any protected monument may, by written instrument, constitute the Director to be the guardian of such monument and the Director may, with the sanction of the State Government, accept such guardianship. (4) When the Director has accepted the guardianship of a protected monument under sub-section (3),:- (a) The owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in or to the monument as if the Director had not been constituted a guardian thereof; and (b) the provisions of this Act relating to agreements executed under section 5, shall apply to the written instrument executed under the said subsection. (5) Nothing in this section shall affect the use of any protected monument for customary religious observances.

7. Preservation of protected monument by agreement :-

(1) The Collector, when so directed by the State Government, shall propose to the owner of a protected monument to enter into an agreement with the State Government within a specified period for the maintenance and upkeep of the monument. (2) An agreement under this section may provide for all or any of the following matters, namely:- (a) the maintenance and upkeep of the monument; (b) the custody of the monument and the duties of any person who may be employed to watch it; (c) the restriction of the owner's right - (i) to use the monument for any purpose, or (ii) to charge any fee for entry into, or inspection of, the monument, or (iii) to destroy, injure, mutilate, deface, alter, repair, remove or disperse the monument or to allow it to fall into decay, or (iv) to build on or near the site of the monument; (d) the facilities of access to be permitted to the public or any section thereof or to archaeological officers or to persons deputed by the owner or any archaeological officer or the Collector to inspect or maintain the monument. (e) the notice to be given to the State Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the State Government to purchase such land, or any specified portion of such land, at its market value; (f) the payments of any expenses incurred by the owner or by the State Government in

connection with the maintenance and upkeep of the monument; (g) the proprietary or other rights which are to vest in the State Government in respect of the monument when any expenses are incurred by the State Government in connection with the maintenance and upkeep of the monument; (h) the appointment of an authority to decide any dispute arising out of the agreement; and (i) any matter connected with the maintenance and upkeep of the monument which is a proper subject of agreement between the owner and the State Government. 3. The terms of an agreement under this section may be altered from time to time by the State Government with the consent of the owner. 4. The State Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six month's notice in writing to the other party: Provided that, where the agreement is terminated by the owner he shall pay to the State Government the expenses, if any, incurred by it on the maintenance and upkeep of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force. 5. An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

8. Owners under disability :-

(1) In case of the owner of a protected monument being unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf, and, in case of village property, the lambardar or other village-officer exercising powers of management of or over such property, may exercise the powers conferred upon an owner by section 5. (2) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

9. Failure or refusal to enter into agreement :-

(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance and upkeep of a protected monument refuses or fails to enter into such an agreement, the State Government may make an order providing for

all or any of the matters specified in sub-section (2) of section 5. (2) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing and being heard against the proposed order. (3) Every order made under sub-section (1) shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under the owner or such other person. (4) When an order made sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance and upkeep of the monument shall be payable by the State Government.

10. Application of endowment to repair protected monument :-

(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance and upkeep of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the State Government may institute a suit in the court of the district judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make application of such endowment or part thereof. (2) On the hearing of an application under sub-section (1), the district judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

11. Enforcement of agreements :-

(1) If an owner or other person who is bound by an agreement for the maintenance and upkeep of a protected monument under section 5 refuses or fails, within such reasonable time as the Director may fix, to do any act which in the opinion of the Director is necessary for the maintenance and upkeep of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement. (2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

12. Power to make order prohibiting contravention of agreement :-

(1) If the Director apprehends to the owner or occupier of a protected monument intends to destroy, injure, mutilate, deface, alter, disperse, remove, imperil or misuse the monument or to allow it to fall into decay or to build on or near the site thereof in contravention of the terms of agreement under section 5, he may, after giving such owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement: Provided that no such opportunity may be given in any case where the Director, for reasons to be recorded, is satisfied that it is not expedient practicable to do so. (2) Any person aggrieved by an order made under sub-section (1) any appeal to the State Government within such time and in such manner as may be prescribed and the decision of the State Government shall be final.

13. Purchasers and persons claiming through owner bound instrument :-

Every person who purchases any land on which is situated a protected monument in respect of which any instrument has been executed by the owner for the time being under section 4 or section 5, and every person claiming any right, title or interest to or in a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

14. Acquisition of protected monument :-

(1) If the State Government apprehends that a protected monument is in danger of being destroyed, injured, mutilated, defaced, altered, dispersed, removed, misused or allowed to fall into decay, the State Government may acquire it under and in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) as if the preservation, maintenance and upkeep of the monument were a public purpose within the meaning of that Act. (2) No protected monument shall be acquired under sub-section - (a) If such monument or any part of it is periodically used for religious observances, or (b) If such monument is the subject of a subsisting agreement executed under section 4 or section 5, and (c) unless the owner or other person competent to enter into an agreement under section 5 has failed to enter into an agreement proposed to him by the Collector under sub-section (1) of section 5 within the period specified in such proposal, or (d) unless such owner or other person has terminated

or given notice of his intention to terminate an agreement made under section 5.

15. Maintenance of certain protected monuments :-

(1) The State Government shall maintain every monument which has been acquired under section 12 or in respect of which any of the rights mentioned in section 14 have been acquired. (2) When the Director has assumed or accepted the guardianship of a protected monument under section 4, he shall, for the purpose of the maintenance and upkeep of such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting and repairing the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance and upkeep thereof. "13A. Power to enter into agreement for the maintenance of certain monument.--

(1) The State Government may, for the purposes of maintenance of a monument falling under section 13, enter into an agreement with any person, firm or trust on such terms and conditions, not inconsistent with the provisions of this Act, as may be specified in the agreement. (2) Notwithstanding anything contained in section 20A, the person, firm or trust referred to in sub-section (1) shall be entitled to collect and retain the whole or such portion of the fee leviable under section 20A and for such period, as may be agreed upon between the State Government and such person, firm or trust, having regard to the expenditure involved in the maintenance of the monument and collection of fee, interest on the capital invested, reasonable return on the investment and the volume of visitors".

16. Voluntary contributions :-

The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him: Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

17. Protection of place of worship from misuse, pollution or desecration :-

(1) A protected monument maintained by the State Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character. (2) Where the

State Government has acquired a protected monument under section 12, or where the Director has purchased, or taken a lease, or accepted a gift or bequest or assumed or accepted guardianship of, a protected monument under section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument or part thereof from pollution or desecration - (a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, of (b) by taking such other action as he may think necessary in this behalf.

18. Relinquishment of rights in a protected monument :-

With the sanction of the State Government, the Director may:-(a) Where rights have been acquired in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the official Gazette, the rights so acquired to the person who would for the time being be the owner of the monument as if such rights had not been acquired; or (b) relinquish any guardianship of a monument which he has accepted or assumed under this Act.

19. Penalties :-

(1) Whoever - (i) destroys, injures, mutilates, defaces, alters, removes, disperses, misuses, imperils or allows to fall into decay a protected monument, or (ii) removes from a protected monument any sculpture, carving image, bas-relief, inscription or other like object, shall be punishable with imprisonment for a term which may extend to six months with fine which may extend to five thousand rupees or with both. (2) Whoever - (i) being the owner or occupier of protected monument, contravenes an order made under section 7 or section 10, or (ii) contravenes any other provision of this chapter for which contravention no punishment is provided for elsewhere therein, shall be punishable with the like punishment.

20. Power to control mining etc. near protected monuments :-

(1) If the State Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated near monument, the State Government may, by

notification in the Official Gazette, make rules - (a) fixing the boundaries of the area to which the rules are to apply, (b) forbidding the carrying on of mining, quarrying, excavating, blasting or other operation of a like nature except in accordance with such rules and otherwise than under and in accordance with terms of a license, and (c) prescribing the authority by which, and the terms on which licenses may be granted to carry on any of the said operations. (2) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

21. Preservation of amenities of or to protected monuments

:-

(1) If the State Government is of opinion that for the purpose of preserving amenities to or of any protected monument it is necessary so to do, the State Government may, by notification in the Official Gazette, in respect of any area comprising or adjacent to the site of such monument and specified in such notification (hereinafter referred to as the controlled area). (a) prohibit or restrict the construction, erection or execution of buildings, structures and other works above ground within the controlled area, or the alteration or extension of any such buildings, structures or works in such manner as materially to affect their external appearance; (b) prescribe the position, height, size, design, materials, colour and screening, and otherwise regulate the external appearance, of buildings, structures and other works above ground within the controlled area; (c) require any local authority - (i) to construct any approach road to any protected monument, or (ii) to demolish any place of public convenience vesting in it, that is to say a latrine, urinal, dustbin and the like, located close to in the vicinity of any protected monument; (d) prohibits or restrict the falling of trees with in the controlled area; (e) otherwise restrict the user of land within the controlled area to such extent as may appear to the State Government to be expedient for the purpose of preserving the amenities to or of the protected monument; (f) provide for such matters as appear to the State Government to be incidental to or consequential on the foregoing provisions of this section or to be necessary for giving effect to those provisions. (2) Not less than forty-five days before issuing a notification under sub-section (1) the State Government shall cause to be published in the Official Gazette, in the controlled area and in the village and as the headquarters of the tehsil in

which the controlled area is situated a notification stating that it proposes to issue a notification in terms of sub-section (1), together with a notice requiring all persons affected by such notification, who wish to make any objections to the issuing of such a notification, to submit their objections in writing to the State Government or to appear before any officer duly authorised in that behalf to hear objections on behalf of the State Government, within one month of the publication of the notification in the Official Gazette or within fifteen days from the date of the publication of the notification in the controlled area, whichever period expires later. (3) If, before the expiration of the time allowed by sub-section (2) for the filing of objections, no objections has been made, the State Government shall proceed at one to issue the notification under sub-section (1) If any such objection has been made, the State Government, after all the objections have been considered or heard, as the case may be, may either - (a) abandon the proposal to issue the notification (1), or (b) issue the notification under sub-section (1) with such modification as it thinks fit. (4) In considering the objections, the decision of the State Government on the question of issuing the notification under sub-section (1) shall be final and conclusive. (5) Nothing contained in any notification under sub-section (1) shall affect any building, structure or other work above ground or any alteration or extension thereof, if it was constructed, erected or executed before the date when notice of intention to issue a notification was given under sub-section (2), and for the purpose of this provision a building, structure or other work and any alteration or extension thereof shall be deemed to have been constructed, effected or executed before that date - (a) if its construction, erection or execution was begun before that date, or (b) if and so far as its construction, erection or execution was necessary for the purpose of performing a contract made before that date. (6) If any person contravenes any of the provisions of a notification issued under sub-section (1), he shall, on conviction, be punished with fine not exceeding one hundred rupees for every day on which the contravention occurs or continues. (7) If, after any person has been convicted under sub-section (6) by reason of the fact that any building, structure or other work is not in conformity with the provisions of the notification issued under sub-section (1), the contravention continues after the expiration of such period as the court before whom he was convicted may determine, the State Government shall have power to do all such acts as in its opinion are necessary

for removing so much of the building, structure or work as is not in conformity with the provisions of the notification aforesaid for making it conform with the provisions of the notification and any recoverable as an arrear of land revenue from the person convicted.

22. Right of access to protected monuments :-

(1) Subject to any rules made under this Act, the public shall have a right of access to every protected monument. (2) In making any rule under sub-section (1) the State Government may provide that a breach of it shall be punishable with fine which may extend to one hundred rupees. "20A. Power to entrance fee.--(1) The State Government may, by notification in the Official Gazette, levy entrance fee in respect of such protected monuments, and at such rates not exceeding two thousand five hundred rupees per head, as may be specified in such notification:- Provided that if the State Government is of the opinion that it is expedient in the public interest so to do, it may by like notification, exempt, wholly or partly, any class of persons from the payment of entrance fee. (2) Such entrance fee when so levied shall be collected in accordance with the rules made under this Act".

CHAPTER 3

PROTECTED AREAS

23. Acquisition of a protected area :-

If the State Government is of opinion that any protected area contains an ancient or historical monument or antiquities of historical, archaeological or artistic importance, interest or value, it may acquire such area under and in accordance with the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) as if the acquisition thereof were for a public purpose within the meaning of that Act.

24. Restrictions on property rights in protected areas :-

(1) No person including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the State Government; Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface. (2) The state Government may, by order, direct that any building constructed by

any person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

25. Excavations for archaeological or historical purposes :-

(1) An archaeological officer or an officer authorised by him in this behalf or any person holding a license granted in this behalf in the prescribed manner under this Act (hereinafter referred to as the licensee) may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in any protected area. (2) Where an archaeological officer has reason to believe that any area not being a protected area contains ruins or relics of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Collector and the owner, enter upon and make excavations in the area.

26. Restrictions on excavations :-

(1) Notwithstanding anything contained in section 23, no excavation or other like operation for archaeological or historical purposes shall be undertaken or authorised to be undertaken in any area except with the previous approval of the Central Government and in accordance with such rules and directions, if any, as the Central Government may make or give in this behalf. (2) Where, in the exercise of the power conferred by section 22, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the State Government shall pay to that person compensation for such infringement.

27. Disposal of Antiquities etc. discovered during excavations :-

(1) Where, as a result of any excavations made in any area under section 23, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall - (a) as soon as practicable, examine such antiquities and submit a report to the State Government in such manner and containing such particulars as may be prescribed, and (b) at the conclusion of the excavation operations, give notice in writing to the owner of the land, from which such antiquities have been discovered, of the nature of such antiquities. (2) All such antiquities shall be deemed to be protected antiquities and, until orders of the State Government as to the disposal or compulsory purchase thereof are received, the

archaeological officer of the licensee as the case may be, shall keep them in such safe custody as he may deem fit. (3) On receipt of a report under sub-section (1) the State Government may make an order for the compulsory purchase of any such antiquities at their market value. (4) When an order for the compulsory purchase of any antiquities is made under sub-section (3), such antiquities shall vest in the State Government with effect from the date of the order.

28. Contraventions of chapter :-

Whoever does any act in contravention of the provisions of this chapter, for which contravention no punishment is provided for elsewhere therein, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

29. Regulation of excavations in protected areas :-

(1) The State Government may make rules - (a) prescribing the authorities by whom licenses to excavate for archaeological and historical purpose in a protected area may be granted; (b) regulating the conditions on which such licenses may be granted the form of such licenses and the taking of security from licensees; (c) prescribing the manner in which antiquities found by a licensee shall be disposed of; and (d) generally to carry out the purposes of this chapter. (2) Such rules may be general for all protected areas for the time being or may be special for any particular protected area or areas and may provide that any person committing a breach of any rule or of any condition of a license shall be punishable with fine which may extend to five thousand rupees, and may further provide that, where the breach has been by the agent or servant of a licensee, the licensee himself shall be punishable.

CHAPTER 4

PROTECTED ANTIQUITIES

30. Power of Government to control movement of protected antiquities :-

(1) If the State Government considers that any protected antiquities or class of protected antiquities ought not to be moved from the place where they are without the sanction of the State Government, the State Government may, by notification in the Official Gazette, direct that any such protected antiquity or any class of such protected antiquities shall not be moved except with

the written permission of the Director. (2) Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed. (3) Any person aggrieved by an order refusing permission may appeal to the State Government whose decision shall be final. (4) Any person who moves any protected antiquity in contravention of a notification issued under sub-section (1) shall be punishable with fine which may extend to five hundred rupees. (5) If the owner of any property proves, to the satisfaction of the State Government, that he has suffered any loss or damage by reason of the inclusion of such property in a notification issued under sub-section (1), the State Government may - (a) exempt such property from the said notification, or (b) purchase such property at its market value, or (c) pay compensation for any loss or damage sustained by the owner of such property.

31. Purchase of protected antiquities by Government :-

(1) If the State Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 28 is in danger of being destroyed, injured, mutilated, defaced, altered, removed, dispersed, misused or allowed to fall into decay or is of opinion that by reason of its historical or archaeological or artistic importance it is desirable to preserve such antiquity in a public place, the State Government may make an order for the compulsory purchase of such antiquity at its market value and the Collector shall thereupon give notice to the owner of the antiquity to be purchase. Provided that the power of purchase given by this sub-section shall not extend to any image or symbol actually used for bonafide religious observations. (2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity such antiquity shall vest in the State Government with effect from the date of the notice.

CHAPTER V

MISCELLANEOUS

32. Constitution of an Advisory Board :-

(1) For the purpose of advising the State Government in the matter of the preservation, maintenance, upkeep, protection, acquisition, regulation and control of ancient or historical monuments, archaeological sites and antiquities in the State, the State Government may constitute an Advisory Board under the name of the Rajasthan Board for ancient Monuments, Archaeological Sites and Antiquities. (2) The constitution of the Advisory Board and the

procedure regarding its work shall be such as may be prescribed.

33. Compensation for loss or damage :-

Any other or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavations in, such land or the exercise of any other power conferred by this Act shall be paid compensation by the State Government for such loss, damage or diminution of profits.

34. Assessment of market value or compensation :-

(1) The market value of any property which the State Government is empowered to purchase at such value under this Act under this Act or the compensation to be paid by the State Government in respect of anything done or any property acquired under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in the provisions of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953) in so far as those provisions can be made applicable: Provided that, when making an inquiry under that Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the State Government and the other a person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector. (2) Notwithstanding anything contained in sub-section (1) or in the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953), in determining the market value of any antiquity in respect of which an order for compulsory purchase is made under sub-section (3) of section 25 or under sub-section (1) of section 29, any increase in the value of the antiquity by reason of its being of historical, archaeological or artistic importance, interest or value shall not be taken into consideration.

35. Delegation of powers :-

The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may be exercised subject to such conditions, if any, as may be specified in such notification, by the Director or by any other officer not below the rank of a Collector as may be specified in the notification.

36. Jurisdiction of Courts :-

No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

37. Special procedural provisions :-

Notwithstanding any thing contained in the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) - (a) an offence under sub-section (1) of section 17 shall be deemed to be a cognizable offence within the meaning of that code and (b) it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding two thousand rupees on any person convicted of an offence which under this Act is punishable with fine exceeding two thousand rupees.

38. Recovery of amount due to Government :-

Any amount due to the State Government from any person under this Act may, on a certificate issued by the Director or an archaeological officer authorised by him in this behalf, be recovered in the same manner as an arrear of land revenue.

39. Protection of action taken under the Act :-

No suit for compensation and no criminal proceeding shall lie against the State Government or any public servant in respect of any act done or intended to be done in good faith in the exercise of any power conferred by this Act.

40. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all matters which, under any provision of this Act, may be or are required to be prescribed or provided for by rules. (3) Any rule made under this section may provide that a breach thereof shall be punishable with fine, which may extend to five thousand rupees. (4) All rules made under this section shall be laid before the House of the State Legislature as soon as possible after they are made and shall be subject to such modifications as that House may make during the session in which they are so laid or the session immediately following.

41. Repeal and savings :-

The Ancient Monuments Preservation Act, 1904 of the Central Legislature as adapted to the pre-reorganisation State of Rajasthan or as extending to the Abu and Ajmer areas and other corresponding laws of any State Legislature for the time being in force in any part of the State shall cease to have effect upon the

coming into force of this Act, except as respects things done omitted to be done before the commencement of this Act.