

THE ANTIQUITIES AND ART TREASURES ACT, 1972

ACT NO. 52 OF 1972

[9th September, 1972]

An Act to regulate the export trade in antiquities and art treasures to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India As follows: -

1.

Short title, extent and commencement.

1. Short title, extent and commencement. (1) This Act may be called the Antiquities and Art Treasures Act, 1972.

(2) It extends to 'the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2.

Definitions.

2. Definitions. (1) In this Act, unless the context otherwise requires,-

(a) "antiquity" includes--

(1) (i) any coin, sculpture, painting, epigraph or other work

1. It shall come into force in the whole of India (except the State of Sikkim) w.e.f. 5.4. 1976, Vide Notifn. No. G.S.R. 279

(E), dt. 5.4.197666, Gaz. of India, Pt. II, Sec. 3(i), p.977.

of art or craftsmanship;

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(ii) any article, object or thing detached from a building cave;

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(iv) any article, object or thing of historical interest;

(v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years; and

(II) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;

(b) "art treasure" means any human work of art, not being an antiquity, declared by the Central Government by notification in the Official Gazette, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;

(c) "export" means taking out of India to a place outside India;

(d) "licensing officer" means an officer appointed as such under section 6;

(e) "registering officer" means an officer appointed as such under section 15;

(f) "Prescribed" means prescribed by rules made under this Act.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

3.

Regulation of export trade in antiquities and art treasures.

3. Regulation of export trade in antiquities and art treasures. (1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorized by the Central Government in this behalf, to export any antiquity or art treasure.

(2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such authority as may be prescribed.

4.

Application or Act 52 of 1962.

4. Application or Act 52 of 1952. The Customs Act, 1962, shall have effect in relation to au antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorized by the Central Government) is prohibited under section 3 save in so far as that Act is Inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorized under that Act shall be made unless the Central Government an an application made to It In this behalf, otherwise directs.

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5.

Antiquities to be sold only under a licence.

5. Antiquities to be sold only under a licence. 1["As from the date of expiry of a period of six months from the commencement of this Act"] no person shall, himself or by any other person on his behalf, carry on the business of selling or offering to sell any antiquity except under and in accordance with the terms and conditions of a licence granted under section 8.

Explanation.-In this section and in sections 7, 8, 12, 13, 14, 17 and 18 "antiquity" does not include ancient and historical records other than those declared by or under law made by Parliament, to be of national importance.

6.

Appointment of licensing officers.

6. Appointment of licensing officers. The Central Government may, by notified order,-

(a) appoint such persons, being gazetted officers of Government, as it thinks fit, to be licensing officers for the purposes of this Act;

(b) define the limits of the area within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

7.

Application for licence.

7. Application for licence. (1) Any person desiring to carry on, himself or by any other person on his behalf, the business of selling or offering to sell antiquities may make an application for the grant of a licence to the licensing officer having jurisdiction.

(2) Every application under sub-section (1) shall be made such form and shall contain such particulars as may be prescribed.

8.

Grant of licence.

8. Grant of licence. (1) On receipt of an application for the grant of a licence under section 7, the licensing officer may, after holding such inquiry as he deems fit, grant a licence to the applicant having regard to the following factors, namely:-

(a) the experience of the applicant with respect to trade, in antiquities;

(b) the village, town or city where the applicant intends to carry on business;

(c) the number of persons already engaged in the business of selling, or offering for sale of, antiquities in the said village, town or city; and

(d) such other factors as may be prescribed:

Provided that no licence shall be granted to the applicant if he is convicted of an offence punishable under the Antiquities (Export Control) Act, 1947 (31 of 1947.) unless a period of ten years has

elapsed since the date of the conviction.

(2) Every licence granted under this section shall be on payment of such fees as may be prescribed.

(3) Every licence granted under this section shall be for such period, subject to such conditions and in such form and shall contain such particulars, as may be prescribed.

(4) No application for the grant of a licence made under section 7 shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

1. Subs. by Act 82 of 1976, s. 2 (w.e.f. 4.6.1976).

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9.

Renewal of licence.

9. Renewal of licence. (1) A licence granted under section 8 may, on an application made by the licensee, be renewed by the licensing officer for such period and on payment of such fees as may be prescribed.

(2) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

10.

Maintenance of records, photographs and registers by licensees.

10. Maintenance of records, photographs and registers by licensees. (1) Every holder of a licence granted under section 8 or renewed under section 9, shall maintain such records, photographs and registers, in such manner and containing such particulars, as may be prescribed.

(2) Every record, photograph and register maintained under sub-section (1) shall, at all reasonable times, be open to inspection by the licensing officer or by any other gazetted officer of Government authorised in writing by the licensing officer in this behalf.

11.

Revocation, suspension and amendment of licences.

11. Revocation, suspension and amendment of licences. (1) If the licensing officer is satisfied either on a reference made to him in this behalf or otherwise that-

(a) a licence granted under section 8 has been obtained by misrepresentation of an essential fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 8.

12.

Persons whose licences have been revoked may sell antiquities to other licensees.

12. Persons whose licences have been revoked may sell antiquities to other licensees. Notwithstanding anything contained in section 5, any person whose licence has been revoked under section 11 may, after making a declaration before the licensing officer, within such period, in such form and in such manner, as may be prescribed, of all the antiquities in his ownership, control or possession immediately before such revocation, sell such antiquities to any other person holding a valid licence under this Act:

Provided that no such antiquity shall be sold after the expiry of a period of six months from the date of revocation of the licence.

13.

Power of Central Government to carry on the business of selling antiquities to the exclusion of others.

13. Power of Central Government to carry on the business of selling antiquities to the exclusion of others. (1) If the Central Government is of opinion that with a view to conserving antiquities or

in the public interest it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that with effect on and from such date as may be specified in the notification, the Central Government or any authority or agency authorised by the Central Government in this behalf shall alone be entitled to carry on the business of selling or offering for sale of antiquities.

(2) On the issue of a notification under sub-section (1)-

(a) it shall not be lawful for any person, authority or agency, other than the Central Government or any authority or agency authorized by the Central Government, to carry on the business, of selling or offering for sale any antiquity on and from the date specified therein;

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(b) the provisions of this Act, in so far as they relate to the licensing of persons carrying on the business' of selling or offering for sale of antiquities shall cease to have effect except as respects things done or omitted to be done before such cesser of operation and section 6 of the General Clauses Act, 1897 (10 of 1897.) shall apply upon such cesser of operation as if those provisions had been repealed by a Central Act:

Provided that every licence granted under section 8 and in force on the date aforesaid shall, notwithstanding that the period specified therein has not expired, cease to be in force.

(3) Every person whose licence has ceased to be in force under the proviso to clause (b) of sub-section (2) shall, within such period, in such form and in such manner as may be prescribed, make a declaration before the licensing officer of all the antiquities in his ownership, control or possession immediately before the date specified in the notification issued under sub-section (1).

14.

Registration of antiquities.

14. Registration of antiquities. (1) The Central Government may, from time to time, by notification in the Official Gazette, specify those antiquities which shall be registered under this Act.

(2) In specifying the antiquities under sub-section (1), the Central Government shall have regard to the following factors, namely:-

(i) the necessity for conserving the objects of art;

(ii) the need to preserve such objects within India for the better appreciation of the cultural heritage of India;

(iii) such other factors as will, or are likely to, contribute to the safeguarding of the cultural heritage of India.

(3) Every person who owns, controls or is in possession of any antiquity specified in the notification issued under sub-section (1) shall register such antiquity before the registering officer-

(a) in the case of a person who owns, controls or possesses such antiquity on the date of issue of such notification, within three months of such, date; and

(b) in the case of any other person, within fifteen days of the date on which he comes into ownership, control or possession of such antiquity,

and obtain a certificate in token of such registration.

15.

Appointment of registering officers.

15. Appointment of registering officers. The Central Government may, by notified order,--

(a) appoint such persons, as it thinks fit, to be registering officers for the purposes of this Act; and