



No. 63 of 2011

**ANTIQUITIES, MONUMENTS AND MUSEUM (AMENDMENT) ACT,
2011**

**AN ACT TO AMEND THE ANTIQUITIES, MONUMENTS AND
MUSEUM ACT, CHAPTER 51 TO REGULATE AND UPDATE THE
LAW RELATING TO SALVAGE OF UNDERWATER CULTURAL
HERITAGE; TO REPEAL THE ABANDONED WRECK ACT,
CHAPTER 274 AND FOR CONNECTED MATTERS**

[Date of Assent – 28th December, 2011]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Antiquities, Monuments and Museum Act¹, may be cited as the Antiquities, Monuments and Museum (Amendment) Act, 2011.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Amendment of section 2 of the principal Act.

- (1) Section 2 of the principal Act is amended —
 - (a) in paragraph (b) of the definition of the word “antiquity”, by the insertion immediately after each appearance of the word “structure,” of the words “including underwater cultural heritage,”;
 - (b) in the definition of the word “monument”, by the insertion immediately after the word “structure” of the words “, including underwater cultural heritage,”;
 - (c) by the insertion in the appropriate alphabetical order of the following words and definition —

“underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological

¹(Ch. 51)

character which have been partially or totally under water, periodically or continuously, for at least fifty years and includes —

- (i) sites, structures, buildings, artifacts and human remains together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character.”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended —

- (a) in subsection (1), by the insertion immediately after the word “structure,” of the words “including underwater cultural heritage,”;
- (b) in subsection (2), by the insertion immediately after the word “land” of the words “, sea or water”;

4. Insertion of section 11A into the principal Act.

The principal Act is amended by the insertion immediately after section 11 of the following new section —

“11A. Reporting of underwater cultural heritage in the EEZ and the continental shelf.

- (1) When a person, or a vessel flying the flag of The Bahamas, discovers or intends to engage in excavations and searches for or other activities directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf of The Bahamas, that person or the master of the vessel shall report such discovery or activity to the Minister, or to a designated person.
- (2) A designated person to whom a report is made under this section shall forthwith inform the Minister and the Board, in writing, of the report.

5. Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended —

- (a) by the insertion, immediately after paragraph (a), of the following —
 - “(b) survey for or recover underwater cultural heritage except in accordance with a licence granted to him;”;and

- (b) by re-naming the existing paragraph (b) as paragraph (c).

6. Amendment of section 13 of the principal Act.

Section 13 of the principal Act is amended —

- (a) in subsection (1), by the insertion immediately after the word “antiquities” of the words “on land or survey for, or recover, underwater cultural heritage”;
- (b) in subsection (4), by the insertion immediately after the word “land” of the words “or the specific coordinates of the area of water”;
- (c) by the insertion immediately after subsection (6) of the following new subsections —

“(7) A licence to survey for or recover underwater cultural heritage incorporates and is subject to the prescribed regulations.

(8) The Minister may grant a licence or authorisation for activity directed at underwater cultural heritage in the exclusive economic zone and the continental shelf.

(9) The Minister may transfer artifacts to a licensee under a licence to survey for or recover underwater cultural heritage if the Minister is satisfied that —

- (a) each recovered artifact has been represented in a complete inventory created during the course of licensed recovery activities;
- (b) each recovered artifact has been assigned a value in arbitrary points by the licensee and the appointed government representative;
- (c) the assignment of points for all artifacts to be divided has been agreed upon in writing by the licensee and the appointed government representative prior to any proposed division of artifacts;
- (d) the government has retained ownership of any artifacts it deems of such high historical, cultural, archaeological or scientific value that their transfer would represent an irreparable loss to the national patrimony; and
- (e) the proposed transfer conforms with the understanding and goal of a division of artifacts as follows —
 - (i) the licensee to receive 75% of total value measured by points;

- (ii) the government to receive 25% of total value measured by points; and
- (iii) both government and licensee to agree in writing that government's retention of artifacts important to the protection of the national patrimony may exceed government's 25% share in certain years with the imbalance to be corrected by future divisions.”.

7. Insertion of section 40 into the principal Act.

The principal Act is amended by the insertion immediately after section 39 of the following new section —

“40. Enactments amended.

The enactments specified in the first column of the Second Schedule are amended in the manner indicated in the second column of that Schedule.”.

8. Amendment of Schedule to the principal Act.

The principal Act is amended by the insertion immediately before the word “Schedule” of the word “First”.

9. Insertion of Second Schedule into the principal Act.

The principal Act is amended by the insertion immediately after the First Schedule of the following —

“SECOND SCHEDULE (Section 7)

ENACTMENTS AMENDED

SHORT TITLE	EXTENT OF AMENDMENT
Abandoned Wreck Act (<i>Ch. 274</i>)	Repeal of the whole Act
Merchant Shipping Act (<i>Ch. 268</i>)	In subsection 2, in the definition of “wreck” deletion of the words “Abandoned Wreck Act” and substitution of the words “Antiquities, Monuments and Museum Act”.