

HISTORICAL MONUMENTS, RELICS, FAUNA AND FLORA ACT

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Historical Monuments, Relics, Fauna and Flora Act

ACT 41 OF 1967

ACT

[Date of Assent: 13th December, 1967]

[Date of Commencement: 22nd December, 1967]

To provide for the preservation and protection of natural and historical monuments, relics, antiques, fauna and flora and for connected matters.

Enacted by the Parliament of Lesotho

1. This Act may be cited as the Historical Monuments, Relics, Fauna and Flora Act, 1967. Short title
2. In this Act unless the context otherwise requires — Interpretation
 - “antique” means an object proclaimed as such by the Minister under the provisions of section 8;
 - “commission” means the commission established by section 3;
 - “fauna” means any wild animal, any reptile (other than a poisonous snake), bird, fish or bee proclaimed as such by the Minister under the provisions of section 8;
 - “flora” means any plant or tree growing without cultivation in, or which is indigenous to, Lesotho, but does not include the flower or seed of any such plant or tree unless it is expressly provided in a notice issued by the Minister under section 8 that the flower and seed of the flora described in such notice is also protected;
 - “Minister” means the Minister of the Government for the time being responsible for education and includes an Assistant Minister to the extent that he is authorised by the Minister to perform the duties and exercise the powers of the Minister under this Act;
 - “monument” means an area or object proclaimed as such by the Minister under the provisions of section 8;
 - “relic” means an object proclaimed as such by the Minister under the provisions of section 8.
3. (1) There is hereby established a commission to be known as the “Commission for preservation of Natural and Historical Monuments, Relics and Antiques and the protection of Fauna and Flora”, which shall be a body corporate with perpetual succession and capable of suing and being sued in its own name, of acquiring and alienating property, entering into contracts and, subject to the provisions of this Act, generally of performing all such acts as are necessary for or incidental to the carrying out of its functions and duties under this Act. Establishment and constitution of the commission

(2) The commission shall consist of not less than five and not more than seven members who shall be appointed by the Minister.

(3) A member of the commission shall hold office for five years unless he sooner resigns or his appointment is terminated under the provisions of subsection (8) and a retiring member shall be eligible for re-appointment.

(4) When a vacancy occurs on the commission by death or resignation, absence from Lesotho, illness or otherwise, the Minister may appoint a person to fill that vacancy for the unexpired portion of the period for which the member whose office has become vacant had been appointed.

(5) Members of the commission shall choose one of their number to be chairman; if at any meeting of the commission the chairman is absent, the members present shall choose one of their number to be chairman of that meeting.

(6) The member presiding as chairman at a meeting of the commission shall have a deliberative vote as well as a casting vote.

(7) Three members present at a meeting of the commission shall constitute a quorum and a decision of a majority of members of the commission present at a meeting shall be deemed to be a decision of the commission.

(8) A member of the commission shall vacate his office —

- (a) if he has been absent from three consecutive meetings of the commission without the permission of the chairman; or
- (b) if he is in the opinion of the Minister unable or unfit to discharge the functions and duties of a member of the commission.

Functions
of the
commission

4. (1) The commission may —

- (a) make a list of all objects whose proclamation under section 8 it considers desirable;
- (b) take steps to ascertain the owners of any object;
- (c) purchase or otherwise acquire any such object or by agreement with the Government or any public body or with any private person having the ownership or control of any such object, take such steps as may be practicable to preserve it;
- (d) take steps for the erection of tablets in suitable places giving information in both official languages of Lesotho about historical events which occurred at such places;
- (e) assume control over any such object if requested by the person having the ownership or control thereof so to do, and as trustee for the Government accept any such object which the owner desires to donate or has bequeathed to the Government;
- (f) preserve, repair, restore or insure any monument, relic, or antique under its control;

- (g) lend any such relic or antique to any museum or other public institution;
- (h) recommend to the Minister the proclamation of any such objects in terms of section 8; and
- (i) through any of its members have access at all reasonable times to any monument or relic proclaimed under section 8.

(2) The commission shall —

- (a) when required by the Minister investigate and report upon any matter relating to any object proclaimed under section 8 or upon the desirability of so proclaiming any object;
- (b) on or before the thirty-first day of December in every year furnish to the Minister a report upon its work during the year ended on the thirty-first day of March last preceding and on any other matters connected with the preservation of monuments, relics and antiques which it may desire to bring to the attention of the Minister; and
- (c) make a register of all monuments, relics antiques, fauna and flora proclaimed as such under section 8.

5. No remuneration shall be paid to the members of the commission, but each member may draw from the funds of the commission his reasonable expenses for travelling and subsistence while engaged upon the business of the commission at such rates as the Minister may prescribe.

Members of the commission not to be remunerated

6. The funds of the commission shall consist of such grants, donations, fees and annual subscriptions as may from time to time be made to it or be payable to it.

Funds of the commission

7. Save with the written consent of the Minister, the commission shall not alienate, hypothecate, or let any object which is its property or for which it is trustee as aforesaid.

Restriction on power to alienate etc.

8. The Minister may from time to time on the recommendation of the commission by notice in the Gazette, proclaim to be —

Proclamation of monuments, relics and antiques

- (a) a monument, any area of land having a distinctive or beautiful scenery or geological formation, any area of land containing a rare or distinctive or beautiful flora or fauna, any area of land containing objects of archaeological, historical or scientific interest, any waterfall, cave, grotto, avenue of trees, old tree or old building and any other object (whether natural or constructed by man) of aesthetic, historical, archaeological or scientific value or interest;
- (b) a relic, any fossil of any kind, any drawing or painting on stone or petroglyph known or commonly believed to have been executed by Bushmen or other aborigines of southern Africa or by any people who inhabited or visited southern Africa in ancient days, and any im-

plement or ornament known or commonly believed to have been used by them and any anthropological or archaeological contents of the graves, caves, rock shelters, middens, shell mounds or other sites used by them;

- (c) an antique, any movable object (not being a monument or a relic) of aesthetic, historical, archaeological or scientific value or interest, the whole or more valuable portion whereof has for more than one hundred years been in any part of southern Africa, or which was made therein more than one hundred years before the publication of such notice;
- (d) protected fauna or flora, any fauna or flora, the species or kind whereof is described in such notice.

Protection
of
monuments,
relics and
antiques

9. (1) Whenever the owner of any object, proclaimed under the provisions of section 8 alienates, pledges or lets it he shall forthwith inform the commission of the name and address of the alienee, pledgee or lessee.

(2) No person shall, without the written consent of the commission destroy or damage any monument or relic or make any alteration thereto or remove it from its original site or export it from Lesotho.

(3) A person desiring to remove a monument or relic from its original site or export it from Lesotho shall when applying to the commission for its consent, supply the commission with a drawing or photograph of the monument or relic in question and shall state the exact locality in which it is situated and the place to which and purposes for which it is desired to remove or export it.

(4) No person having control of any antique shall without the written consent of the commission destroy or damage it or export it from Lesotho.

(5) A person derising to export an antique from Lesotho shall when applying to the commission for its consent supply the commission with a photograph and description thereof and shall state the place to which and the purposes for which it is desired to export the antique.

Protection
of fauna and
flora

10. (1) No person shall without the written consent of the commission destroy or damage or remove from its original habitat or export from Lesotho any fauna proclaimed under section 8 to be protected fauna.

(2) No person shall without the written consent of the commission destroy or damage or remove from its original site or export from Lesotho any flora proclaimed under section 8 to be protected flora.

Minister may
prohibit
removal or
export of
monument,
relic,
antique etc.

11. (1) The Minister may, on the recommendation of the commission, by notice in the Gazette prohibit the removal or the export, without the consent in writing of the commission, of any object or group or collection of objects which is, in the opinion of the Minister, capable of being proclaimed under section 8.

(2) The owner of any such object or group or collection of objects or of any object which forms part of such group or collection who is affected by any such prohibition, may submit to the commission an objection in writing to that prohibition. The commission shall transmit that objection to the Minister who may thereupon cancel, modify or confirm the prohibition.

12. A person who knowingly —

Penalties

- (a) fails to comply with or contravenes any provision of section 9 or section 10; or
- (b) contravenes any prohibition issued under section 11; or
- (c) in an application to the commission for its consent makes a statement which is false in any material respect or supplies therewith any drawing or photograph which is false in any material respect; or
- (d) damages or destroys any tablet erected in terms of paragraph (d) or subsection (1) of section 4; or
- (e) destroys, damages or mars any drawing, painting or petroglyph described in paragraph (b) of section 8 or any substance near such drawing, painting, petroglyph or without the consent of the commission destroys or damages any part of a cave or rock in or on which there is any such drawing, painting or petroglyph; or
- (f) without the consent of the commission destroys, damages or disturbs any grave, cave, rock shelter, midden or shell mound described in paragraph (b) of section 8,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rands or in default of payment to imprisonment for a period not exceeding six months.

13. The Minister may, after consultation with the commission, make regulations, not inconsistent with this Act, generally for carrying into effect the principles, purposes and provisions of this Act, and in particular but without prejudice to the generality of the foregoing, he may make regulations prescribing —

Regulations

- (a) the procedure in connection with meetings of the commission;
- (b) the qualifications of its members; and
- (c) the rates of travelling and subsistence allowances to be paid to members of the commission.

14. The Protection of Relics, Fauna and Flora Proclamation is hereby repealed.

Repeal [of
Proclamation
40 of 1938]
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