

**ACT NO. 11 OF 2002**

**I ASSENT**

**{ AMANI ABEID KARUME }  
PRESIDENT OF ZANZIBAR  
AND  
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

**9<sup>th</sup> June, 2006**

**AN ACT TO PROVIDE FOR THE PRESERVATION OF ANCIENT MONUMENTS AND  
OBJECTS OF ARCHAEOLOGICAL,  
HISTORICAL OR ARTISTIC INTEREST**

**ENACTED** by the House of Representatives of Zanzibar.

**PART I  
PRELIMINARY PROVISIONS**

**1.** This Act may be cited as the Ancient Monuments Preservation Act, 2002 and shall come into operation on such date as the Minister may by notice published in the Gazette, appoint.

**2.** In this Act, unless the context otherwise requires:-

"antiquity" includes any movable object which the Minister, by reason of its archaeological or historical associations may think it necessary to protect against injury, removal or dispersion;

"Authority" means any person or body of authorised persons by the Minister to perform the duties of an Authority under this Act;

"Government" means the Revolutionary Government of Zanzibar;

"maintain" and "maintenance" include the fencing covering in, repairing, restoring and cleansing of a protected monument or antiquity, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or antiquity or of securing convenient access thereto;

"Minister" means the Minister responsible for ancient monuments;

"monument" means any structure, erection, or memorial, or any tumulus or place of interment, or any cave, rock-sculpture, inscription of monolith, which is of archaeological, historical or artistic interest, or any remains thereof, and includes:-

- (a) the site of monument;
- (b) such portion of land adjoining the site of monument as may be required for fencing or covering in or otherwise preserving such monument; and
- (c) the means of access to and convenient inspection of monument;

"owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any agent or trustee exercising powers of management over a monument or antiquity, and the successor in title of any such owner and the successor in office of any such agent or trustee;

## **PART II ANCIENT MONUMENTS**

**3.(1)** The Minister may, by notice in the Gazette, declare any monument or antiquity to be a protected monument or antiquity within the meaning of this Act. Such notice shall state that objections to the declaration of the monument or antiquity as a protected monument or antiquity may be lodged with the Chief Secretary within two months from the date of the publication of the notice.

(2) A copy of every notice published under subsection (1) of this section shall forthwith be posted in a conspicuous place on or near the monument or antiquity to which it relates.

(3) On the expiration of the said period of two months, the Minister, after considering the objections, if any, shall confirm or withdraw the notice.

(4) A notice published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument or antiquity to which it relates is a protected monument or antiquity within the meaning of this Act.

**4.(1)** The Minister shall establish the Authority to manage and supervise the ancient monuments or antiquity as he deems necessary.

(2) An Authority may, with the sanction of the Minister, purchase or take a lease of any protected monument or antiquity.

(3) An Authority may, with the like sanction, accept a gift or bequest of any protected monument or antiquity.

(4) The owner of any protected monument or antiquity may by written instrument constitute the guardian of such monument or antiquity, and an Authority may, with the sanction of the Minister, accept such guardianship.

(5) When the Authority has accepted the guardianship of a monument or antiquity under subsection (4) of this section the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument or antiquity as if the Authority had not been constituted guardian thereof.

(6) When an Authority has accepted the guardianship of a monument or antiquity under subsection (4) of this section the provisions of this Act relating to agreements executed under section 5 of this Act, shall apply to the written instrument executed under the said subsection.

(7) Where a protected monument or antiquity is without an owner, the Authority may, with the sanction of the Minister, assume the guardianship of such monument or antiquity.

**5.(1)** The authority may, enter into a written agreement with the owner of any protected monument or antiquity for the protection or preservation of such monument or antiquity.

(2) An agreement under this section may provide for all or any of the following matters:-

(a) the maintenance of the monument or antiquity;

- (b) the custody of the monument or antiquity and the duties of any person who may be employed in connection therewith;
- (c) the restriction of the owner's right to destroy, remove, alter or deface the monument or antiquity or to build on or near the site of the monument or antiquity;
- (d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Authority to inspect or to maintain the monument or antiquity;
- (e) the notice to be given to the Authority in case the land on which the monument or antiquity is situated is offered for sale by the owner, and the right to be reserved to the Authority to purchase such land or any specified portion of such land at its market value;
- (f) the payment of any expenses incurred by the owner or by the Authority in connection with the protection or preservation of the monument or antiquity;
- (g) the procedure relating to the settlement of any dispute arising out of the agreement; and
- (h) any matter connected with the preservation of the monument or antiquity which is a proper subject of agreement between the owner and the Authority.

(3) The terms of an agreement under this section may be altered from time to time with the sanction of the Minister and with the consent of the owner.

(4) Subject to the sanction of the Minister, the Authority may terminate an agreement under this section on giving three months' notice in writing to the owner.

(5) The owner may terminate an agreement under this section on giving three months' notice in writing to the Authority.

(6) An agreement under this section shall be binding on any person claiming to be the owner of the monument or antiquity to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(7) Any rights acquired by the Authority in respect of expenses incurred in protecting or preserving a monument or antiquity shall not be affected by the termination of an agreement under this section.

**6.** If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5 of this Act.

**7.(1)** If the Authority apprehends that the owner or occupier of a monument or antiquity intends to build on or near the site of any protected monument or antiquity in contravention of the terms of an agreement for its protection or preservation under section 5 of this Act, the Authority may make an order prohibiting any such contravention of the agreement.

(2) If an owner or other person who is bound by an agreement for the protection, preservation or maintenance of a monument or antiquity under section 5 of this Act, refuses to do any act which is in the opinion of the Authority necessary to such protection, preservation or

maintenance or neglects to do any such act within such reasonable time as may be fixed by the Authority, the Authority may authorise any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner.

(3) A person aggrieved by an order made under this section may appeal to the Minister, who may cancel or modify it and whose decision shall be final.

**8.(1)** If the Minister apprehends that a protected monument or antiquity is in danger of being destroyed, injured or allowed to fall into decay, the Minister may proceed to acquire such monument or antiquity under the provisions of the Land Acquisition Act as if the preservation of a protected monument or antiquity were a "public purpose" within the meaning of that Act.

(2) The powers of compulsory acquisition conferred by subsection (1) of this section shall not be exercised in case of:-

- (a) any monument which, or any part of which, is periodically used for religious observances; or
- (b) any monument or antiquity which is the subject of a subsisting agreement executed under section 5 of this Act.

(3) In any case other than the case referred to in Subsection (2) of this section the said powers of compulsory purchase shall not be executed unless the owner or other person competent to enter into an agreement under section 5 of this Act, has failed, within such reasonable period as the Minister may fix in this behalf, to enter into an agreement under the said section or has terminated or given notice of his intention to terminate such an agreement.

**9.(1)** Every monument or antiquity in respect of which an Authority has acquired any of the rights mentioned in section 4 of this Act or which has been compulsorily purchased under section 8 shall be maintained by the Authority by which such rights were acquired or by such Authority as may be appointed in the behalf by the Minister, as the case may be.

(2) When the Authority has accepted the guardianship of a monument or antiquity under section 4 of this Act, the Authority shall, for the purpose of maintaining such monument or antiquity, have access to the monument or antiquity at all reasonable times, for the purpose of inspection and for the purpose of bringing such materials and doing such act as the Authority may consider necessary for the maintenance thereof:

(3) The right of access conferred on the Authority under this subsection (2) of this section shall be deemed to extend to the duly authorised agents, inspectors and workmen of such Authority.

**10.(1)** The Authority may receive voluntary contributions towards the cost of maintaining a protected monument or antiquity and may, subject to the approval of the Minister, give orders as to the management and application of any funds so received.

(2) No contribution received under subsection (1) of this section shall be applied to any purpose other than the purpose for which it was contributed.

**11.(1)** A place of worship or tomb maintained by an Authority under this Act shall not be used for any purpose inconsistent with its character.

(2) When the Authority has, under section 4 of this Act, purchased or taken a lease of any protected monument, or has accepted a gift or bequest thereof, or has accepted the guardianship thereof, and such monument or any part thereof is periodically used for religious worship or observances by any community, the Authority shall make due provision for the protection of such monument or such part thereof from pollution or desecration:-

- (a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, or any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used; or
- (b) by taking such other action as the Authority may think necessary in this behalf.

**12.** The Authority may:-

- (a) where rights have been acquired by such Authority in respect of any monument or antiquity under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument or antiquity if such rights had not been acquired; or
- (b) relinquish any guardianship which such Authority has accepted under this Act.

**13.** Subject to such Rules as may be made under section 36 of this Act, the public shall have a right of access to any monument or antiquity maintained by the Authority under this Act.

### **PART III CONTROL OF RESEARCH OF ANCIENT MONUMENTS**

**14.(1)** No person shall be allowed to conduct any research of ancient monuments by way of exploring, searching on the earth surface, diving or otherwise, and shall not be allowed to transfer objects or part thereof within the boundary of Zanzibar, without the permit issued by the order of the Minister which allows so to do together with other conditions.

(2) When the Minister thinks appropriate the research to be conducted on the ancient monuments for scientific, historical or cultural development, he may allow the licence to be issued for that purpose and for any other condition as he thinks appropriate to be imposed and shall be given to a researcher himself from his recognised institution.

**15.** The Minister may require to be given assurance, before the licence is given, that the applicant has received adequate funds for his research activities which includes expenses for museum, preservation of objects discovered, exhibition of the objects found from the research and his contribution to the Special fund for preservation of historical heritage.

**16.(1)** The government may allow other experts who need to conduct inspection on the preserved objects, to conduct research on a particular place or to provide detailed scientific information, without the written permission from the respective researcher, and if the final result of that research is not printed the Government may do so after the expiry of four years.

(2) The Minister may, at any time, if he thinks that there is a reasonable ground suspend a licence issued to conduct a research or cancel it forth with.

**17.(1)** The Minister, before allowing the licence for research to be issued under section 14 of this Act, shall ensure that the Authority has received adequate information that the applicant of the licence is conversant with the work, is trained, well experienced in the research by using scientific and ancient methodologies, and he may require evidence from recognised institution that the applicant is known and has received adequate funds for that research.

(2) The licence shall have the same format and contain same information prescribed in form 'A' attached to this Act.

**18.** Any person who shall conduct any research without licence issued for that purpose or who contravenes any condition stipulated in the licence issued under this Act, is guilty of an offence and on conviction shall be liable to pay a fine of three hundred US Dollar (\$ 300) or imprisonment for a term not exceeding six months and not less than three months or both such fine and imprisonment.

#### **PART IV INSPECTIONS**

**19.(1)** The Authority or any officer authorised may, any time, inspect the research work or construction and he is not satisfied with the implemental of the conditions of the licence and may issued the order the inspection of the said work until the Authority directs otherwise.

(2) The Authority or the officer authorised by it, shall inform the Minister and shall submit to him his inspection report.

**20.** Any person who fails to give access to the officer of the Government who is carrying out his duty under this Act, to inspect the research work shall be guilty of an offence and if he is convicted shall be liable to a fine of three hundred united states dollar or imprisonment for a term of three months or both such fine and imprisonment.

#### **PART V EXPORTATION OF ANTIQUITIES**

**21.(1)** No person shall be allowed to export out side Zanzibar anything to be translated as antiquity under this Act without written permission of the Authority.

(2) The Authority shall not give its permission to export antiquity except for special case, may be given for further inspection not exceeding one year; and such period when expired may be extended for another one year.

(3) The permission shall be given by the order of the Minister and for the conditions as deem necessary under this Act, and the Minister if he has reasonable reasons may refuse to give such permission.

**22.(1)** The application for the permission to export any antiquity under this Act shall be submitted in writing to the Authority at least six days before the date proposed to be exported outside this country, and the said application shall be attached with the list of all objects intended to be exported with full statement thereof.

(2) Before the permission is granted the Authority shall ensure that the officer in charge has objects inspected the intended to be exported are the same with the list submitted by the applicant and the Authority may direct that objects to be well packed and sealed on it.

(3) Before and after the antiquities removed from Zanzibar in accordance with the conditions of the permission, the researcher may require to submit copies, sketch, pictures, or film of the objects intended to be exported.

**23.** Any permission granted under this Act, shall not allow to be exported any antiquity, save through the ports which have custom services; and the permission holder when he requested by the custom officer shall produce before him; if the researcher fails to produce the permission the custom officer may retain that object and in such reasonable period shall present that object to the Authority.

**24.** Any person who removes object without permission under this Act or attempts to remove such objects outside Zanzibar shall be guilty of an offence and if he convicted shall be liable to fine of 20,000 USD or imprisonment for one year or both and the items involved in the offence shall be under the Authority.

## **PART VI DISCOVERY OF ANTIQUITIES**

**25.(1)** Any person who discovery any antiquity, including a researcher who possesses a permit issued under this Act, shall forth with give notice to the Authority.

(2) Any person who discovers any antiquity through his activities not related to the research permit issued under this Act, or if he possesses or he was given by another person by any means, or found in the ruins or protected areas listed under this Act, or found in any water within the boundary of Zanzibar, he is liable to give notice forthwith to the Authority of that discovery and to explain the exactly place where he found it and the way he found it, and that person shall surrender that object forthwith to the Authority, if he so required to do.

(3) Where any antiquity is discovered and the notice is not given, the Government shall confiscate such object and if a person who discovered any antiquity is not certain with the object, is antiquity under the interpretation of this Act, he shall forthwith consult the Authority on that issue and the decision of the Authority shall be final.

(4) The Authority once receiving the notice in writing on that object from a person who discovered it, if it found that it is among the antiquities under this Act, in writing shall inform the Minister on such discovery and his opinion shall be notified to the person who discovered it.

**26.(1)** A person who received a notice from the Authority that the object discovered is an antiquity, he shall not be allowed to sell it or attempt to do so, to destroy it or to remove it by any means until he receives a permission in writing from the Authority to do so.

(2) After the Authority thoroughly inspected that object, when it deems very valuable to the nation, for the locals or for research, may retain that object for ninety days for the purposes of its records including photographing and photocopying or for further inspections and the Authority may retain beyond that period subject to the agreement between the Authority and the person who discovered it.

(3) Before or after that period lapsed, the Authority shall have the power to decide returning back to the person who discovered it, or to surrender it to the government for preservation for national heritage.

**27.(1)** Unless it stated otherwise in this Act, the Authority by the permission of the Minister shall pay compensation to a person who discovered an antiquity under this Act which is

equivalent to the value of that object or shall surrender it to the person who discovered it; the value of that object shall be reached by consensus of both parties concerned or otherwise shall be determined by two mediators.

(2) The permission to pay compensation under this section shall not include objects or moments discovered from the research permitted by a licence issued under this Act.

**28.** If any Act of any country allows exchange of antiquity by importation from Zanzibar and whereas the transfer of that antiquity to that country from Zanzibar is contrary to this Act, or Laws of UNESCO relating to cultural wealth and also to be returned to the Government of Zanzibar of that object, in that case, it is an offence to import into Zanzibar such antiquity from such country which is contrary to their laws and on conviction, the court shall order that antiquity to be surrendered to the Authority in order to make arrangement to return it to the respective institute or original country.

**29.** Any thing relating to this offence shall be submitted to the Authority, and any person who fails to give notice or willfully gives false information or submitted an antiquity to the place contrary to the provision of this Act, or attempts to deceive and officer of the government in relation to the date of that object by words or any other means shall be guilty of an offence and on conviction shall be liable to the fine of nine hundred United States Dollar or imprisonment for a period of six months or both such fine and imprisonment.

**30.** Any person who destroys, removes, injures, alters, defaces or imperils a protected monument or antiquity, and any owner or occupier who contravenes an order made under subsection (1) of section 7 of this Act, shall be guilty of an offence and shall on conviction therefor be liable to hundred a fine not exceeding two thousand shillings or to imprisonment for a term of six months or to both such fine and imprisonment.

**31.** If the Authority is of opinion that excavation within the limits of any area ought to be restricted or regulated for the purpose of protecting or preserving any monument or antiquity, the Authority may make Rules:-

- (a) fixing the boundaries of the area to which the Rules are to apply; or
- (b) prescribing the terms upon which, licences to excavate may be granted.

**32.** The market value of any property which the Authority empowered to purchase at such value under this Act shall, where any dispute arises touching the amount of such value, be ascertained in the manner provided by the provisions of Part II of the First Schedule to the Acquisition of Land (Assessment of compensation) Act.

**33.** Any instrument executed under section 4 or section 5 of this Act shall be exempt from stamp duty.

**34.(1)** The Ancient Monuments Preservation Decree, Cap. 102 is hereby repealed.

(2) Notwithstanding the repeal of the said Decree, all acts done under the repealed Act shall be valid unless is repealed under this Act.

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



36. The Minister may make Regulations for carrying out any of the purposes of this Act.

## **SCHEDULE**

### **LICENCE CONDITIONS**

1. The researcher shall set aside fund on his budget for the preservation of objects resulting from the research permitted under this Act, and for the exhibition of those objects as part of the findings of his research, unless the Minister decides otherwise.
2. In conducting a research permitted under this Act, at least one person from the government shall be appointed to work with the researcher and the researcher shall bear the cost.
3. This licence does not permit the researcher to enter in any part of land or excavate, destroy crops or residential areas without the permission or consent of the owner of that area or property.
4. Within the period of two years after the expiration of this licence, or more, if the Minister accepts in writing, a researcher shall prepare and submit to the Authority, a full report of his scientific research including maps, land records, list of objects and summary of residues found and other documents relating to archeological, historical, plantological and any other natural objects discovered or found.
5. At the end of every research the researcher shall submit a short report of his research findings.
6. A researcher shall be responsible for the security of the people and other destruction caused by his research and shall pay the cost of any claim accepted by the law presented to the Authority.
7. The researcher shall take precaution by considering new technology and make sure that all objects found and ruin areas are preserved.
8. A researcher shall not allow any other person who is not expert in the work to collect, excavate or use any objects of the research, whether he is employed or not.
9. A researcher shall keep and maintain a list of objects found in his research together with its scientific explanation in three copies and when he completed his research shall submit a copy to the Authority which includes maps, drawings and other documents to be kept for security purposes.
10. A register of list of objects, maps, drawings and other documents shall be available all the time of licence for inspection, and the researcher shall allow the Authority or any person authorized by the Authority to inspect anything in that register at any stage.
11. A researcher shall make sure that all objects obtained under the licence issued under this Act, are numbered, if not possible, the information shall be recorded in a card attached to them and shall be well preserved in the bags which have special mark of research area.
12. A researcher shall make sure that he is not explored all the ancient area, unless if he is permitted by the Authority to conduct emergency and important research in that area.
13. A researcher shall ensure that after completion of his research, all holes and pits dug during the research are filled in and fencing them if he is allowed to do so.

14. All objects found by a researcher in accordance with the licence issued under this Act, is belong to the government and shall submit them to the Authority and shall not transfer them without the consent of the Authority.
15. Subject to the conditions of this licence, a researcher may be permitted by the Authority to transfer any ancient object to any other place in Zanzibar for further work or for security purposes, if he gives prior notice to the Authority, which states, among other things, where they come from and where he will put them, except that a researcher shall not transfer them outside Zanzibar.
16. While a researcher is waiting for a special permit to transfer temporarily for that objects, such objects shall be under the responsibility of the Authority, or a place authorized by the Minister.
17. All archeological objects shall be kept in the government museum or any other place authorized by the Minister.
18. A researcher shall inform the Authority and the District he resides on his activities and shall observe all directives given to him.
19. A researcher may give information relating to his research to the medias in Zanzibar by the approval of the Authority.
20. A researcher may submit to the Authority a copy of a report of any work published relating to his research licenced by this Act, and such copy shall be kept in the Achieves.
21. The Minister, if he has reasonable cause, may anytime, revoke or suspend this licence.
22. Failure to comply with the conditions prescribed in this licence or delaying in conducting a research work for four months, after the lincence has been issued, it may amount the licence to be revoked.

**ATTACHMENT**

FORM A (To be filled in 3 copies)

Photograph

Ref. ....

Permit of .....

**LICENCE FOR RESEACH WORK ON ARCHIOLOGH, PLANTOCOGY,  
AND REMOVAL OF ANCIENT OBJECTS FROM ZANZIBAR**

**( Under Section 14 of Ancient Monument Preservation Act, No. 11 of 2002)**

(Issued by Department of Ancient Monument, Museum and Achieves P.O. Box 116 Zanzibar,  
Tel. 2232337 )

Name and Address of a Researcher .....

Name and Address of a Researcher Organisation .....

Residence .....

Citizenship .....

Subject to the conditions provided under section ..... of this Act, the licence holder  
(mentioned in this licence its conditions as a researcher) under this licence is permitted to conduct  
research on Archeological Plantological, Historical or natural objects by excavating or otherwise  
and if need arises to transfer them anywhere in Zanzibar.

This licence expires on ..... day of ....., 200.....

The research shall be conducted in the following area:

.....

Signature .....

Zanzibar

Note: Application for renewal of licence shall be submitted to the concerned at least two weeks  
before the proposed date of such renewal.

The conditions are hereby enclosed.

FORM B (To be filled in 3 copies)

Ref. ....

**THE PERMISSION FOR REMOVAL OF ANCIENT MONUMENT OR OBJECTS  
FROM ZANZIBAR  
{ Under Section 21 }**

Name .....

Name .....

Subject to the condition prescribed hereunder the ..... (hereinafter referred to as a researcher) from the organization mentioned above, is permitted by the Minister to remove ancient monument or objects mentioned in this permit from Zanzibar through port of ..... for the purposes of .....

Signature .....

on behalf of the Minister.

Passed in the House of Representatives on the 8<sup>th</sup> day of October, 2002.

{ KHAMIS JUMA CHANDE }  
***CLERK OF THE HOUSE OF REPRESENTATIVES***