

**VIDHAN SABHA SECRETARIAT
MADHYA PRADESH**



**REPORT
OF
THE SELECT COMMITTEE
ON THE**

**Madhya Pradesh Ancient Monuments and
Archaeological Sites and Remains
Bill, 1962**

(No. 13 of 1962)

Together with the Bill as amended by the Select Committee

**BHOPAL
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Composition of the Select Committee ~~for the~~
Monuments and Archaeological Sites and Remains Bill, 1962
(No. 13 of 1962)

CHAIRMAN

1. Shri Kunjbiharilal Guru.

MEMBERS

1. Shrimati Chandrakala Sahai, Deputy Minister, Education.
2. Shri Kamta Prasad Saxena.
4. Shri Shyam Sunder Patidar.
5. Dr. Rama Charan Rai.
6. Shri Reshamlal Jangde.
7. Shri Lokumal.
8. Shrimati Narayani Devi Jha.
9. Shri Narendra Singh (Tikamgarh).
10. Shri Ramswaroop Khare.
11. Shri Ram Kishore Shukla
12. Rajkumari Prabhawati Raje.
13. Shri Bapulal Malviya.
14. Shri Yamuna Prasad Shastri.
15. Dr. Shanker Dayal Sharma, Minister for Education.

SECRETARIAT

1. Shri Madan Gopal, Secretary.
2. Shri R. R. Kanhai, Under Secretary.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Madhya Pradesh Ancient Monuments and Archaeological Sites and Remains Bill, 1962 (No. 13 of 1962) was referred, having been authorised to submit the Report on their behalf, present this, their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill* was introduced in the Vidhan Sabha on the 27th June, 1962. The motion for reference of the Bill to a Select Committee was moved by Dr. Shanker Dayal Sharma, Minister for Education on the 28th June, 1962 and was adopted on the same day.

3. The Committee held six sittings in all.

4. In the first meeting of the Committee held on the 4th September, 1962, the Committee decided to invite opinions of the following so as to reach the Vidhan Sabha Secretariat within a period of three weeks from the date of receipt of the request for the same:—

- (1) general public,
- (2) Vice-Chancellors of all the Universities in Madhya Pradesh and persons or institutions as they think fit,
- (3) all District Bar Associations in Madhya Pradesh,
- (4) Advocate-General, Madhya Pradesh,
- (5) High Court Bar Associations at Jabalpur, Indore and Gwalior,
- (6) Judges of the High Court of Judicature at Jabalpur,
- (7) Dr. Markase, Director of Research Institute of Law, New Delhi, and
- (8) Dr. K. S. Lal, M.A., D.Phil., Secretary, Madhya Pradesh Itihas Parishad and Professor of History, Hamidia Arts and Commerce College, Bhopal.

The Committee also decided to visit the places in Indore, Gwalior, Jabalpur, Rewa, Raipur and Bhopal Divisions for the purpose of studying the factual position of the ancient and historical monuments and archaeological sites and remains in Madhya Pradesh.

5. Three memoranda of opinions/suggestions on the Bill were received by the Committee from different individuals as mentioned in the Appendix.

6. In the second, third and fourth sittings of the Committee held on the 28th and 29th December, 1962 and on the 21st January, 1963 respectively the Committee considered the Bill clause by clause.

7. The fifth sitting of the Committee held on the 16th March, 1963 was adjourned for want of quorum. In the sixth sitting of the Committee held on the 23rd March, 1963 the Committee considered the drafts of the amendments to the clauses and approved them. The Committee considered and adopted the report.

8. The observations of the Committee with regard to principal changes proposed in the Bill are given in the succeeding paragraphs.

9. Clause 2.—The Committee are of the opinion that the period of one hundred years given in item (a) for bringing a monument within the category of an ancient monument is too long and consider that a period of fifty years would be sufficient to make it an ancient monument. The item has been amended accordingly.

*Published in English and in Hindi in the "Madhya Pradesh Gazette" Extraordinary, dated the 18th and 21st June 1962, respectively.

(ii)

In item (b) (v), the Committee feel that any article, object or thing should only be declared by the State Government to be an antiquity if it is of historical or archaeological importance and which is desirable to be preserved. The item has been amended to make this intention clear.

10. Clause 3.—In sub-clauses (1) and (3), the Committee consider that one month's period of notice to be given by the State Government for declaring an ancient monument to be State protected monument or an archaeological site and remain to be a State protected area is rather short and should be raised to a period of two months.

The clause has been amended accordingly.

11. Clause 9.—The Committee are of the opinion that in sub-clause (2) the word "precribe" connotes the sense of making rules according to section 2 (32) of the Madhya Pradesh General Clauses Act, 1957 and, therefore, they consider the words "by rules" as redundant and have omitted them.

12. New Clause 15-A.—The Committee consider that there should be a provision in the Bill empowering the State Government for taking suitable action for the purpose of preserving the reasonable amenities of any protected monument and for the payment of necessary compensation to any person whose property is injuriously affected as a result of the exercise of the said powers by the State Government.

New clause 15-A has been added accordingly.

13. Clause 25.—In the proviso to sub-clause (1), the Committee consider that under the Land Acquisition Act, 1894 the Collector is vested with full powers to make enquiries and the provision of two assessors serves no useful purpose.

The proviso has, therefore, been omitted.

14. New Clause 25-A.—This new clause has been added to provide for special provision for compensation under clause 15-A which has been newly added.

15. Clause 27.—In sub-clause (1) the Committee feel that the punishment of imprisonment to the extent of three months or fine to the extent of five thousand rupees or both is not adequate and should be enhanced to one year or ten thousand rupees or both.

The clause has been amended accordingly.

New Sub-clause (1-A).—This new sub-clause has been added to provide for punishment for contravention of the notification issued under sub-clause (1) of clause 15-A which has been newly added.

16. Clause 30.—The Committee are of the opinion that any Magistrate of the first class specially empowered by the State Government is sufficient to exercise the powers to pass a sentence of fine under this clause and, therefore, it is not necessary to give the same powers to District Magistrates also.

The clause has been amended accordingly.

17. The other amendments made by the Committee are of minor or consequential nature and are self-explanatory.

18. The Committee recommend that the Bill, as amended by them, be passed.

(iii)

APPENDIX

(See paragraph 5)

Individuals from whom memoranda of opinions/suggestions were received

S. No.	From whom received	Action taken
(1)	(2)	(3)
1	Dr. K. S. Lal, M. A., D. Phil., Secretary, Madhya Pradesh Itihas Parishad and Professor of History, Hamidia Arts and Commerce College, Bhopal.	Circulated to members
2	Shri Parasram Dhurve, M.L.A., Post Junnardeo, District Chhindwara.	Circulated to members
3	Shri Ishwar Chandra, Registrar, University of Saugar.	Circulated to members

BHOPAL:

The 23rd March 1963.

KUNJBIHARILAL GURU,

Chairman,

Select Committee.

(As amended by the Select Committee)

MADHYA PRADESH BILL

(No. 13 OF 1962)

[Omissions made by the Select Committee are enclosed in square brackets and additions or alterations made by them are underlined.]

**THE MADHYA PRADESH ANCIENT MONUMENTS AND
ARCHAEOLOGICAL SITES AND REMAINS
BILL, 1962**

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(As amended by the Select Committee)

MADHYA PRADESH BILL

(No. 13 OF 1962)

[Omissions made by the Select Committee are enclosed in square brackets and additions or alterations made by them are sidelined or underlined.]

THE MADHYA PRADESH ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS

BILL, 1962

A Bill to provide for the preservation of certain ancient and historical monuments and archaeological sites and remains and for the regulation of excavation of archaeological sites in Madhya Pradesh and matters ancillary thereto.

BE it enacted by the Madhya Pradesh Legislature in the [Thirteenth] Fourteenth Year of the Republic of India, as follows:—

Preliminary

1. (1) This Act may be called the Madhya Pradesh Ancient Monuments and Archaeological Sites and Remains Act, [1962] 1963. Short title, extent, commencement and application.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

(4) Nothing in this Act shall apply to protected areas and protected monuments as defined in clauses (i) and (j), respectively of section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (No. 24 of 1958).

2. In this Act, unless the context otherwise requires,— Definitions.

(a) "Ancient monument" means any building, structure, erection, monolith or monument or any mound or tumulus or any tomb or place of interment or any cave or any sculpture or inscription on an immovable object which is of historical, archaeological or artistic interest and which has been in existence for not less than [one hundred] fifty years, and includes—

(i) the remains of [an ancient] such monument,

(ii) the site of [an ancient] such monument,

(iii) such portion of land adjoining the site of [an ancient] such monument as may be required for

fencing or covering in or otherwise preserving [such] the monument, and

- (iv) the means of access to, and convenient inspection of, [an ancient] such monument ;
- (b) "antiquity" includes—
- (i) any coin, sculpture, manuscript epigraph, or other work of art or craftsmanship,
 - (ii) any article, object or thing detached from a building or 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, and
 - (v) any article, object or thing which in the opinion of the State Government because of its historical or archaeological importance is an article, object or thing which it is desirable to preserve declared by the State Government, by notification, to be an antiquity for the purposes of this Act,
which has been in existence for not less than [one hundred] fifty years ;
- (c) "Archaeological site and remains" means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than [one hundred] fifty years, and includes—
- (i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and
 - (ii) the means of access to, and convenient inspection of the area ;
- (d) "Director" means the Director of Archaeology, Madhya Pradesh, and includes any officer authorised by the State Government to perform the duties of the Director of Archaeology under this Act ;
- (e) "maintain" with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleaning of a State protected monument and the doing of any act which may be necessary for the purpose of maintaining a State protected monument or of securing convenient access thereto ;
- (f) "owner" includes—
- (i) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-title of any such owner, and
 - (ii) any manager or trustee exercising powers of management and the successor in office of any such manager or trustee ;

- (g) "State-protected area" means any archaeological site and remains which is declared to be a State-protected area under this Act ;
- (h) "State-protected monument" means [a historical] an ancient monument which is declared to be a State-protected monument under this Act.

Protected Monuments

3. (1) *Where the State Government is of the opinion that it is necessary to protect against destruction, injury, alteration, mutilations, defacement, removal, dispersion or falling into decay any—*

Power of the State Government to declare ancient monuments to be State-protected monuments or archaeological site and remains to be State protected area.

- (a) *ancient monument,*
- (b) *archeological site and remains,*

it may, by notification, give [one month's] two months' notice of its intention to declare such ancient monument to be a State-protected monument or such archaeological site and remains to be a State Protected area, as the case may be, and a copy of every such notification shall be affixed in a conspicuous place on or near the monument or site and remains, as the case may be.

(2) *Any person intersted in any such ancient monument or archaeological site and remains may, within one month after the issue of the notification, object to the declaration of the monument to be a State-protected monument or of the archaeological site and remains to be a State-protected area, as the case may be.*

(3) *On the expiry of the said period of [one month] two months the State Government may, after considering the objections, if any, received by it, declare by notification in the Gazette, the ancient monument to be a State-protected monument or the archaeological site and remains to be a State-protected area, as the case may be.*

(4) *A notification publishea under this section shall, unless and until withdrawn, be conclusive evidence of the fact that the monument or the archaeological site and remains to which it relates, is a State-protected monument or State-protected area, as the case may be.*

4. (1) *The State Government may purchase or take a lease of or accept a gift or request of any State-protected monument.*

Acquisition of rights in or guardianship of a State protected monument.

(2) *Where a State-protected monument is without an owner, the Director may, by notification, assume the guardianship of the monument.*

(3) *The owner of any State-protected monument may, by written instrument, constitute the Director the guardian of the 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 State-protected monument, under sub-section (3). the owner*

shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof.

(5) When the Director has accepted the guardianship of a State-protected monument under sub-section (3), the provisions of this Act relating to agreements entered into under section 5 shall apply to the written agreement referred to in the said sub-section.

(6) Nothing in this section shall affect the use of any State-protected monument for customary religious observances.

Maintenance of protected monument by agreement.

5. (1) The Director may, with the previous sanction of the State Government, propose to the owner of a State-protected monument to enter into an agreement with the State Government within a specified period for the maintenance of the monument.

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

(a) the maintenance 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 ;

(ii) to charge any fee for entry into, or inspection of the monument ;

(iii) to destroy, remove, alter or deface the monument ;
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 and to the Director and to the persons deputed by the owner or the Director 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 payment of any expenses incurred by the owner or by the State Government in connection with the maintenance 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 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 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 with the sanction of the State Government and with the consent, in writing, 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 months' 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 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.

6. (1) If the owner of a State-protected monument 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. Owners under disability or not in possession.

(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 State-protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. (1) If any owner or other person, competent to enter into an agreement under section 5 for the maintenance of a State-protected monument, refuses or fails to enter into such an agreement when proposed to him by the Director 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 an application to the District Judge for the proper application of such endowment or part thereof. Application of endowment to repair protected monument

(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.

8. (1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance of a State-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). Failure or refusal to enter into agreement.

of section 5 and such order 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.

(2) Where an order made under 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 of the monument shall be payable by the State Government.

(3) 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, against the proposed order.

Power to make order prohibiting contravention of agreement.

9. (1) If the Director apprehends that the owner or occupier of a State-protected monument intends to destroy, remove, alter, mutilate, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement under section 5, the Director may, after giving the 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 or practicable to do so.

(2) Any person aggrieved by an order under this section may appeal to the State Government within such time and in such manner as may be prescribed [by rule] in this behalf and the decision of the State Government shall be final.

Enforcement of agreement.

10. (1) If an owner or other person who is bound by an agreement for the maintenance of a 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 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.

Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.

11. Every person who purchases at a sale for arrear of land revenue or any other public demand any land on which is situated a 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.

Compulsory acquisition of protected monuments.

12. If the State Government apprehends that a State-protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay, it may acquire the State-

protected monument under the provisions of the Land Acquisition Act, 1894 (1 of 1894), as if the maintenance of the State-protected monument were a public purpose within the meaning of that Act.

13. (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 4 have been acquired.* Maintenance of certain protected monuments.

(2) *When the Director has accepted the guardianship of a State-protected monument under section 4, he shall, for the purpose of maintaining 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 the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.*

14. The Director may receive voluntary contributions towards the cost of maintaining a State-protected monument and may give orders as to the management and application of any funds so received by him: Voluntary contributions.

Provided that no contribution received under this section or any part thereof shall be applied to any purpose other than the purpose for which it was contributed without the consent, in writing, of the donor.

15. (1) A State-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. Protection of place of worship from misuse, pollution or desecration.

(2) Where the State Government has acquired a monument under section 12, or has purchased, or taken a lease or accepted a gift or bequest or assumed guardianship of, a State protected monument under section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Director shall make due provision for the protection of such monument or part thereof, from pollution or desecration by taking such action as he may think necessary in this behalf.

15-A. (1) If the State Government is of opinion that for the purpose of preserving the reasonable amenities of any protected monument, it is necessary so to do, the State Government may, subject to the provisions of this section, by notification in respect of any area comprising or adjacent to the site of such monument specified in such notification (hereinafter referred to as "the controlled area")— Preservation of amenities of protected monuments.

(a) prohibit or restrict the construction, erection or execution of building, structures and other works 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, materials, colour and screening and otherwise regulate the external appearance of buildings, structures and other works within the controlled area;
- (c) require any local authority—
 - (i) to construct any approach road to any protected monument, or
 - (ii) to demolish any public convenience vesting in it, that is to say, a latrine, urinal, dustbin, rubbish dump and the like, located close to or in the vicinity of any protected monument;
- (d) prohibit or restrict the felling of trees within the controlled area;
- (e) otherwise restrict the user of land within the controlled area to such extent as is necessary for the purpose of preserving the reasonable amenities 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 fortyfive days before issuing a notification under sub-section (1), the State Government shall cause to be published in the Gazette, in the controlled area, and in the village and at the headquarters of the tahsil 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 objection to the issuing of such a notification, to submit their objections in writing to the State Government or 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 Gazette, or within fifteen days from the date of the publication of the notification in the controlled area, whichever period expires later.

(3) If on the expiration of the time allowed by sub-section (2) for the filing of objections, no objection has been made, the State Government shall proceed at once to issue the notification under sub-section (1). If any objection has been made, the State Government may, after such objection has been considered or heard, as the case may be, either—

- (a) abandon the proposals to issue the notification under sub-section (1); or
- (b) issue the notification under sub-section (1) with such modifications, if any, 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 or any alteration or extension thereof, if it was constructed, erected, or executed before the date when notice of intention to issue such 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, erected 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) Any person whose property is injuriously affected by the coming into force of a notification under sub-section (1) shall, subject to the provisions of section 25-A, be entitled to obtain compensation in respect thereof from the State Government.

16. (1) Where rights have been acquired by the State Government in respect of any monument under this Act by virtue of any sale, lease, gift, or will, the State Government may, by notification, relinquish rights so acquired to the person who would, for the time being, be the owner of the monument if such rights had not been acquired.

(2) The Director may with the sanction of the State Government relinquish the guardianship of a monument which he has assumed under this Act.

17. Subject to any rules made under this Act, the public shall have a right of access to any State-protected monument.

Right of access to certain State-protected monuments.

PROTECTED AREAS

18. (1) No person, including the owner or occupier of a State-protected area shall construct any building within the State-protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area or utilise such area or any part thereof in any other manner without the permission of the State Government:

Restrictions on enjoyment of property rights in State-protected areas.

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 State-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.

Power to acquire
protected area

19. *If the State Government is of opinion that any State protected area contains an ancient monument or antiquities of historical interest and value, it may acquire such area under the provisions of the Land Acquisition Act, 1894 (I of 1894), as if the acquisition were for a public purpose within the meaning of that Act.*

Archaeological Excavations

Excavations in
State-protected
areas.

20. Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (No. 24 of 1958) the Director or an officer authorised by him in this behalf or any person holding a licence granted in this behalf 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 State-protected area.

Compulsory
purchase of
antiquities etc.,
discovered during
excavation opera-
tions.

21. (1) Where, as a result of any excavations made in any area under section 20 any antiquities are discovered, the Director 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 ;

(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) Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the Director or 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.

Protection of antiquities

Power of State
Government to
control moving
of antiquities.

22. (1) *If the State Government considers it necessary in the public interest that any antiquity or class of antiquities should not be moved from the place where it is without the sanction of the State Government, the State Government may, by notification, direct that any antiquity or class of 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) 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 the notification published under sub-section (1), the State Government shall either—

- (a) exempt such property from the said notification; or
- (b) acquire such property, if it be movable, at its market value; or
- (c) pay compensation for any loss or damage sustained by the owner of such property, if it be immovable.

23. (1) If the State Government apprehends that any anti-Purchase of
quity is in danger of being destroyed, injured, misused, or antiquity by State
allowed to fall into decay, or is of opinion that, by reason of its Government.
historical or archaeological 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 Director shall thereupon give notice to the owner of the antiquity to be purchased.

(2) Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity, it shall vest in the State Government with effect from the date of the notice.

(3) The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for *bona fide* religious observance.

Principles of Compensation

24. Any owner or occupier of land who has sustained any Compensation for
loss or damage or any diminution of profits from the land by loss or damage.
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.

25. (1) The market value of any property which the State Assessment of
Government is empowered to purchase at such value under this market value
Act or the compensation to be paid by the State Government or compensation.
in respect of anything done under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34 45, to 47, 51 and 52 of the Land Acquisition Act, 1894 (I of 1894), so far as they can be made applicable [:].

[Provided that, when making an enquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be 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 Land Acquisition Act, 1894, (No. 1 of 1894), 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 21 or under sub-section (1) of section 7A, any increase in the value of the antiquity by reason of its being of historical or archaeological importance shall not be taken into consideration.

Special provision
as to compensa-
tion under sec-
tion 15-A.

25-A. (1) No person shall be entitled to compensation in respect of any notification issued under sub-section (1) of section 15-A unless, within three months from the date on which such notification comes into force, or within such further time as the State Government may in special circumstances allow, he makes a claim for the purpose in the prescribed manner.

(2) A person shall not be entitled to compensation by reason of the fact that any act or thing done or caused to be done by him has been rendered abortive by such notification if, or so far as, the act or thing was done after the date on which the notification was issued, or by reason of the fact that the performance of any contract made by him after that date is prohibited as a result of the notification.

(3) Where any provision of such notification was immediately before the notification came into force already in force by virtue of any other Act, no compensation shall be payable by reason of any property being injuriously affected by that provision of the notification, if compensation has been paid or could have been claimed, or was not payable, by reason of that property having been injuriously affected by the provision already in force.

(4) Where any provision of such notification could, immediately before it came into force, have been validly included in a scheme, order, regulation or bye-law by virtue of any other Act, then,—

(a) if no compensation would have been payable by reason of the inclusion of that provision in that scheme, order, regulation or by-law, no compensation shall be payable in respect of that provision of the notification; and

(b) if compensation would have been so payable, the compensation payable in respect of that provision of the notification shall not be greater than the compensation which would have been so payable.

(5) Any dispute as to the amount of the sum which is to be paid as compensation in respect of such a notification shall be determined in accordance with the provisions of section 25.

Miscellaneous

Delegation of
powers.

26. The State Government may, by notification, direct that any powers conferred on it by or under this Act shall, subject to such conditions as may be specified in the direction be also exercisable by such officer or authority subordinate to the State Government as may be specified in the direction.

27. (1) Whoever—

Penalties.

- (i) destroys, removes, injures, alters, defaces, imperils or misuses a State-protected monument; or
- (ii) being the owner or occupier of a State-protected monument, contravenes an order made under sub-section (1) of section 8 or under sub-section (1) of section 9; or
- (iii) removes from a State-protected monument any sculpture, carving, image, bas-relief, inscription, or other like objects; or
- (iv) does any act in contravention of sub-section (1) of section 18;

shall be punishable with imprisonment which may extend to [three months], one year or with fine which may extend to [five] ten thousand rupees, or with both.

(1-A) Any person who contravenes any of the provisions of a notification issued under sub-section (1) of section 15-A shall, on conviction, be punished with fine which may extend to two thousand rupees, and if the contravention is continued after conviction with a further fine which may extend to five rupees for each day on which the contravention is so continued, and if such contravention is continued after the expiry of such period as the Court may determine, the State Government shall in addition 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 for making it in conformity with such provisions, and any expense incurred by the State Government shall be recoverable from the person convicted as an arrear of land revenue.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 22 shall be punishable with fine which may extend to five thousand rupees; and the court convicting a person of any such contravention may, by order, direct such person to restore the antiquity to the place from which it was moved.

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

29. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under clause (i) or clause (iii) of sub-section (1) of section 27, shall be deemed to be a cognizable offence within the meaning of that Code. Certain offences to be cognizable.

30. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf [and for any District Magistrate] 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. Special provision regarding fine.

Recovery of amounts due to Government.

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

Power to declare State-protected monuments and State-protected area to be no longer such monuments or area.

32. If the State Government is of opinion that it is no longer necessary to protect any State-protected monument or State-protected area, it may, by notification, make a declaration to that effect and thereupon such monument or area shall cease to be a State-protected monument or State-protected area, as the case may be.

Power to correct mistakes etc.

33. Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient monument or archaeological site and remains declared to be State-protected monuments or State-protected areas, as the case may be, under this Act may at any time be corrected by the State Government by notification.

Protection of action taken under the Act.

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

Power to make rules.

35. (1) The State Government may, by notification 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 or any of the following matters, namely:—

- (a) The prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a State-protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings;
- (b) the grant of licenses and permissions to make excavations for archaeological purposes in State-protected areas, the authorities by whom, and the restriction and conditions subject to which, such licences may be granted, the taking of securities from licensees and the fees that may be charged for such licences;
- (c) the right of access of the public to a State-protected monument and the fee, if any, to be charged therefor;
- (d) the form and contents of the report of an archaeological officer or a licensee under clause (a) of sub-section (1) of section 21;
- (e) the form in which applications for permission under section 18 or section 22 may be made and the particulars which they should contain;

(e-1) the manner in which a claim shall be made under sub-section (1) of section 25-A;

(f) the form and manner of preferring appeals under this Act and the time within which they may be preferred;

(g) the manner of service of any order or notice under this Act;

(h) the manner in which excavations and other like operations for archaeological purposes may be carried on;

(i) any other matter which is to be or may be prescribed.

(3) Any rule made under this section may provide that a breach thereof shall be punishable,—

(i) in the case of a rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both,

(ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five thousand rupees,

(iii) in the case of a rule made with reference to clause (c) of sub-section (2), with fine which may extend to five hundred rupees.

(4) All rules made under this Act shall be laid on the table of Legislative Assembly.

36. The Ancient Monuments Preservation Act, 1904 (VII Repeal. of 1904), in its application to the State of Madhya Pradesh shall cease to have effect in relation to ancient and historical monuments, archaeological sites and remains and all other matters pertaining thereto to which this Act applies, except as respects things done or omitted to be done before the commencement of this Act.