

**CHAPTER 59:03  
MONUMENTS AND RELICS**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Appointment of officers
4. Honorary officers
5. Functions of a custodian
6. Functions of an Inspector
7. Functions of the Commissioner
8. Powers of the Commissioner
9. Agreements for preservation of national monuments, etc.
10. Declaration of national monuments
11. Declaration of recent historic monuments, etc.
12. Notification of discoveries
13. Minister's option to acquire ownership
14. Minister's power to acquire access to national monument
15. Minister's power to prevent access to national monument
16. No excavation without permission of Minister
17. No archaeological research without permission of Minister
18. No alterations, damage or removal without consent of Minister
19. Pre-development impact assessment
20. Damage to erected tablets and other identification notices
21. Establishment of Monuments and Relics Fund
22. Arrest, seizure and ejection
23. Offences and penalties
24. Regulations
25. Savings

Act 12, 2001.

**An Act to re-enact, with amendments, the Monuments and Relics Act (Cap. 59:03).**

*[Date of Commencement: 24th August, 2001]*

**1. Short title**

This Act may be cited as the Monuments and Relics Act.

**2. Interpretation**

In this Act, unless the context otherwise requires-

**"ancient monument"** means any building, ruin, remaining portion of a building or ruin, ancient working, stone circle, grave, cave, rock shelter, midden, shell mound, archaeological site, or other site or thing of a similar kind, which is known or believed to have been erected, constructed or used in Botswana before 1st June, 1902;

**"ancient working"** means any shaft, cutting, tunnel, quarry or stope or any building or machinery appertaining thereto, which was made or used for mining purposes in Botswana

and was in existence before 1st June, 1902;

**"Board"** means the National Museum and Art Gallery Board established under the National Museum and Art Gallery Act;

**"Commissioner"** means the Commissioner of Monuments and Relics appointed under section 3;

**"custodian"** means a custodian appointed under section 3;

**"excavation"** includes any process of digging or unearthing and any act involved in such process, and **"excavate"** bears a corresponding meaning;

**"historic building"** means any building, of national value, which was erected, constructed or used in Botswana after 1st June, 1902, which building has been declared an historic building under section 11;

**"inspector"** means an inspector of monuments appointed under section 3;

**"monument"** includes-

- (a) any ancient monument;
- (b) any recent historic monument;
- (c) any area of land which is of archaeological or historical interest or contains objects of such interest;
- (d) any area of land which has distinctive scenery or a distinctive geological formation;
- (e) any area of land containing rare or distinctive flora;
- (f) any cave, rock shelter, grove of trees, tree, old structure or other object or article, whether natural or constructed by man, of aesthetic, archaeological, historical or scientific value or interest, other than a relic; or
- (g) any waterfall;

**"national monument"** means a monument, recent artefact, or relic which has been declared a national monument under section 10;

**"national value"** means value to the cultural or natural heritage of Botswana;

**"owner"** in relation to any national monument, monument, recent artefact, relic or protected heritage area, or the land within or on which they are situated, means the owner, lessee, or other lawful possessor thereof;

**"protected heritage area"** means-

- (a) an area or region of national value which has been declared a protected heritage area under section 11; or
- (b) an area or region containing one or more national monuments, monuments or sites, which area or region has been declared a protected heritage area under section 11;

**"recent artefact"** means any drawing, painting, carving, ornament, implement, stone

tool, bone, pottery, or any other artefact, of national value, that were made or used in Botswana after 1st June, 1902, and which has been declared as such under section 11;

**"recent historic monument"** means any structure, of national value, which was erected, constructed or used in Botswana after 1st June, 1902, which structure has been declared a recent historic monument under section 11 and includes any building declared an historic building under section 11;

**"relic"** means any-

- (a) fossil;
- (b) meteorite;
- (c) drawing, painting or carving on stone or petroglyph executed in Botswana before 1st June, 1902;
- (d) artefact, implement or ornament of aesthetic, archaeological, anthropological, historical or scientific value made or used in Botswana before 1st June, 1902;
- (e) any stone tool, bone, pottery or any other anthropological or archaeological contents of any ancient monument or ancient working; or
- (f) any treasure trove discovered in Botswana;

**"site"** includes, where a relic or recent artefact is not contained in a monument, any area of land on which such relic or recent artefact is situated; and

**"treasure trove"** means any artefact made of or containing any precious mineral.

### **3. Appointment of officers**

(1) Subject to the laws governing the public service the Minister shall appoint-

- (a) an officer in the public service to be Commissioner of Monuments and Relics;
- (b) one or more officers in the public service to be inspectors of monuments;
- (c) such other officers as may be necessary for the purposes of this Act.

(2) Any appointment made under the provisions of subsection (1) shall be made only with the consent of the Minister in whose Ministry the officer appointed is employed, and shall be published in the *Gazette*.

### **4. Honorary officers**

(1) The Minister may, by notice published in the *Gazette*, appoint honorary officers for the purpose of assisting in the carrying out of the provisions of this Act and the regulations made thereunder.

(2) The Minister shall appoint as honorary officer, a person who-

- (a) is a member of the community where the monument is situated; and
- (b) is knowledgeable about the history of the monument.

(3) An honorary officer shall have such powers as may be prescribed, which shall not exceed the powers conferred upon an Inspector of Monuments by this Act and the regulations made thereunder.

(4) An honorary officer shall hold office for a period of three years unless the appointment is sooner revoked, and shall be eligible for re-appointment.

## **5. Functions of a custodian**

A custodian shall preserve and protect from interference any national monument, monument, relic, recent artefact or protected heritage area assigned to his custody by the Commissioner.

## **6. Functions of an Inspector**

An Inspector shall-

- (a) report, in writing, to the Commissioner-
  - (i) any monument, relic or recent artefact, not being a national monument, of which he becomes aware, the declaration of which as a national monument or the control or custody of which may be considered desirable by the State;
  - (ii) any building or structure of national value, which was erected, constructed or used in Botswana after 1st June, 1902, of which he becomes aware, the declaration of which as a historic building or the control or custody of which may be considered desirable by the State;
  - (iii) any drawing, painting, carving, ornament, implement, stone tool, bone, pottery, or any other artefact, of national value, which was made or used in Botswana after 1st June, 1902, of which he becomes aware, the declaration of which as a recent artefact or the control or custody of which may be considered desirable by the State;
  - (iv) any area or region containing one or more national monuments, monuments or sites, the declaration of which area or region as a protected heritage area may be considered desirable by the State;
- (b) when required by the Commissioner, investigate and report upon any matter relating to-
  - (i) any national monument, monument, relic or recent artefact and upon the desirability of declaring any monument, relic or recent artefact as a national monument;
  - (ii) any building or structure of national value, which was erected, constructed or used in Botswana after 1st June, 1902, and upon the desirability of declaring any such building as an historic building;
  - (iii) any drawing, painting, carving, ornament, implement, stone tool, bone, pottery, or any other artefact, of national value, which was made or used in Botswana after 1st June, 1902, and upon the desirability of declaring it as a recent artefact;

- (iv) any area or region and upon the desirability of declaring such area or region as a protected heritage area;
- (c) secure the utilisation of any national monument, monument, relic, recent artefact or protected heritage area as part of the cultural or natural heritage of Botswana for the benefit of the community; and
- (d) undertake such other functions as the Commissioner may direct.

## **7. Functions of the Commissioner**

The Commissioner shall-

- (a) receive reports from inspectors on-
  - (i) any national monument, monument or relic, of which they become aware;
  - (ii) any matter relating to any building of national value, which was erected, constructed or used in Botswana after 1st June, 1902, and upon the desirability of declaring any such building as a historic building;
  - (iii) any matter relating to any structure of national value, which was erected, constructed or used in Botswana after 1st June, 1902, and upon the desirability of declaring any such structure as a recent historic monument;
  - (iv) any matter relating to any drawing, painting, carving, ornament, implement, stone tool, bones, pottery, or any other artefact whatsoever, of national value, that was made or used in Botswana after 1st June, 1902, and upon the desirability of declaring it as a recent artefact;
  - (v) any area or region which it may be desirable to declare as a protected heritage area;
- (b) instruct inspector to investigate and report upon any matter relating to-
  - (i) any national monument, monument, relic or recent artefact and upon the desirability of declaring any monument, relic or recent artefact as a national monument;
  - (ii) any area or region and upon the desirability of declaring such area or region as a protected heritage area;
- (c) recommend to the Minister, the declaration of any-
  - (i) monument, relic or recent artefact as a national monument;
  - (ii) region or area as a protected heritage area;
- (d) recommend to the Minister, the negotiation or conclusion of agreements for-
  - (i) the acquisition, in terms of section 13, of any national monument, monument, relic, recent artefact or protected heritage area;
  - (ii) the protection or preservation, in terms of section 9, of any national monument, monument, relic, recent artefact or protected heritage area;

- (e) undertake, with the written permission of the Minister, the excavation or exploration of any national monument, monument, relic or recent artefact owned by the State or in respect of which the Minister has concluded with the owner an agreement permitting such excavation or exploration;
- (f) in the case of any national monument, monument, relic, recent artefact or protected heritage area owned by the State or in respect of which the Minister has concluded, with the owner, an agreement for its protection or preservation, do or authorise to be done any act, not inconsistent with any agreement that may be applicable, which he considers necessary for its investigation, protection or preservation;
- (g) cause tablets, plaques and other identification notices to be erected in suitable places giving information about events which have occurred at or near such places;
- (h) compile a register of all national monuments, recent historic monuments, recent artefacts, protected heritage areas and of such other monuments or relics as have been brought to his notice;
- (i) compile a register of all national monuments, monuments, relics, recent artefacts or protected heritage areas which have been acquired for the State;
- (j) advise the Minister on the exercise of the Minister's functions under this Act;
- (k) assign to inspectors such further functions as he may deem fit for the purpose of assisting him in discharging his functions under this Act;

## **8. Powers of the Commissioner**

The Commissioner may, after consultation with the Minister, in addition to any other powers conferred by this Act-

- (a) purchase or take on lease or on loan, any national monument, monument, relic, recent artefact or protected heritage area;
- (b) accept a gift or bequest of any national monument, monument, relic, recent artefact or protected heritage area;
- (c) accept from the owner of any national monument, monument, relic, recent artefact or protected heritage area the custody and control thereof;
- (d) preserve, protect, repair, restore or insure any national monument, monument, relic, recent artefact or protected heritage area which is owned by the State or under its control;
- (e) with the agreement of the Board, give, lend, sell or give in exchange, any movable national monument, monument, relic or recent artefact to any person, body or institution whether within or outside Botswana.

## **9. Agreements for preservation of national monuments, etc.**

(1) The Minister may, after consultation with the Commissioner, enter into a written agreement with the owner of any national monument, recent artefact, recent historic monument or protected heritage area, for its protection or preservation.

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

- (a) the maintenance of the national monument, recent artefact, recent historic monuments or protected heritage area;
- (b) the custody of the national monument, recent artefact, recent historic monument or protected heritage area, and the duties of any person who may be employed in connection therewith;
- (c) the restriction of the owner's right to destroy, alter, deface or build on or near any such national monument, recent artefact, recent historic monument or protected heritage area;
- (d) the restriction of the owner's right, in the case where the national monument, recent artefact or recent historic monument is moveable to remove any such national monument, recent artefact or recent historic monument from its site;
- (e) the terms of access to be permitted to the public or to any portion thereof, and to persons deputed by the owner or Minister to inspect or maintain the national monument, recent artefact, recent historic monument or protected heritage area;
- (f) the notice to be given to the Minister in case the land on which, or where the national monument, recent artefact, recent historic monument or protected heritage area is situated, is offered for sale by the owner, and the right to be reserved to the Minister to purchase such land or any specified portion of such land at its market value and to acquire rights of access thereto;
- (g) the payment of any expense incurred by the owner or the Minister in connection with the protection or preservation thereof;
- (h) the procedure for resolving any dispute arising out of the agreement;
- (i) any matter connected with the protection or preservation thereof which is the proper subject of agreement between the owner and the Minister; or
- (j) the removal of the national monument, recent artefact or recent historic monument, if movable, to a place of safe custody.

(3) The terms of an agreement under this section may be altered from time to time by agreement, in writing, between the parties.

(4) An agreement under this section shall be expressed to endure either for a specified period or in perpetuity.

(5) If it is expressed to endure for a period of 10 years or more or in perpetuity, and it relates to any national monument, recent artefact, recent historic monument or protected heritage area, provided any such national monument, recent artefact or recent historic monument is not a movable object, the agreement shall on the application of the Minister, be registered in the Deeds Registry, without fee or other charge, against the title to any land in or upon which it is situated.

(6) An agreement under this section, notwithstanding that it is not registered, shall be binding on any person claiming to be the owner of the national monument, recent artefact, recent historic monument, protected heritage area or land to which it relates, through or

under a party by whom or on whose behalf the agreement was executed.

(7) For the purposes of this section an owner under legal disability may be represented by any person legally competent to act on his behalf.

## **10. Declaration of national monuments**

(1) The Minister may, after consultation with the Commissioner, by order published in the *Gazette*, declare any monument, relic or recent artefact to be a national monument:

Provided that at least one month before the declaration as a national monument of any monument, relic or recent artefact which is not owned by the State, the Minister shall notify the owner thereof in writing that he proposes so to declare the monument, relic or recent artefact, and such owner may lodge with the Minister objections in writing to the proposed declaration.

(2) Land on which a national monument is situated shall not be used for purposes other than the protection and preservation of the national monuments, without the Minister's prior written approval.

(3) No development of land within one kilometre of any national monument shall take place without the Minister's prior written approval, which approval shall not be granted unless the Minister is satisfied that-

- (a) such development will not be incompatible with the preservation of the national monument; or
- (b) it is in the national interest for such development to be undertaken.

(4) The relevant land board, council or other land authority, as the case may be, for the area in which the national monument is situated, shall advise the Commissioner of any developments that are likely to interfere with the monument's integrity, setting or atmosphere.

## **11. Declaration of recent historic monuments, etc**

The Minister may, after consultation with the Commissioner, by order published in the *Gazette*, declare-

- (a) any structure, of national value, which was erected, constructed or used in Botswana after 1st June, 1902, a recent historic monument;
- (b) any building, of national value, which was erected, constructed or used in Botswana after 1st June, 1902, an historic building;
- (c) any drawing, painting, carving, ornament, implement, stone tool, bone, pottery, or any other artefact, of national value, that was made or used in Botswana after 1st June, 1902, a recent artefact; or
- (d) an area of land or region-
  - (i) of national value; or
  - (ii) containing one or more national monuments, monuments or sites, or a combination thereof, if the Minister considers it necessary in order to preserve



the authenticity or integrity of the national monuments, monuments or sites, or the surrounding setting or atmosphere thereof, as a protected heritage area.

## **12. Notification of discoveries**

(1) The discovery of any monument, artefact, relic or any other discovery of an archaeological nature, shall be notified in writing to the Commissioner without delay by the discoverer, and also by the owner or occupier of the land upon which such discovery is made, as soon as such discovery comes to his notice.

(2) Any person who makes such discovery in the course of any excavation or construction shall immediately suspend such excavation or construction until the Commissioner has directed-

- (a) whether the excavation or construction may proceed; and
- (b) if so, when and the manner in which the excavation or construction may proceed.

(3) The Commissioner shall, without unreasonable delay, give such directions.

## **13. Minister's option to acquire ownership**

(1) The Minister shall have a right of option to acquire for the State, after consultation with the Commissioner, the ownership of any protected heritage area or national monument, monument, relic or recent artefact, together with the site thereof, upon payment to the owner thereof and to any other person having an interest therein or right thereover of the sum of money to be agreed as fair and reasonable compensation or, failing agreement, upon payment of such sum as may be determined by the High Court on application made by the Minister or the owner of the protected area, national monument, monument, relic or recent artefact, or the person having an interest therein or a right thereover.

(2) The right conferred by subsection (1) may only be exercised in order to secure the utilisation of a protected heritage area or a national monument, monument, relic or recent artefact as part of the natural or cultural heritage of Botswana for the benefit of the community.

(3) Any dispute as to the interest or right of any person claiming to have an interest in or right over any protected heritage area, national monument, monument, relic or recent artefact intended to be acquired, or as to the legality of the exercise by the Minister of the right conferred by subsection (1) shall be determined by the High Court on application made by the Minister or the person claiming to have the interest or right, before the protected heritage area, national monument, monument, relic or recent artefact concerned is acquired.

## **14. Minister's power to acquire access to national monument**

(1) The Minister may, after consultation with the Commissioner, acquire rights of access for members of the public and for persons exercising functions under this Act, to any national monument situated on land not owned by the State, both across such land and across any adjoining or adjacent land for payment to the owner thereof and to any other person having an interest therein or right thereover of a sum of money to be agreed as fair and reasonable compensation, or failing agreement, upon payment of such sum as may be determined by the High Court on application made by the Minister.

(2) The right conferred by subsection (1) may only be exercised in order to secure the

utilisation of the national monument as part of the natural or cultural heritage of Botswana for the benefit of the community.

(3) Any dispute as to the interest or right of any person claiming to have an interest in or right over land across which the Minister intends to acquire a right of access in terms of subsection (1) or as to the legality of the exercise of the Minister's power under that subsection, or as to the definition of the right of access and the conditions subject to which it is to be acquired, shall be determined by the High Court on application made by the Minister or the other party to the dispute before such right is acquired.

#### **15. Minister's power to prevent access to national monument**

(1) The Minister may, by order published in the *Gazette*, specify and define sites or portions of sites of national monuments which no person shall enter upon without the permission of the Commissioner or a person authorised by him to grant such permission.

(2) No person shall without such permission enter upon any site or portion of a site specified or defined in terms of subsection (1) except, in the case of a site or portion of a site upon land not owned by the State, the owner or occupier of such land or persons visiting the site with the consent of the owner or occupier.

(3) A person who contravenes subsection (2) commits an offence and is liable upon conviction to a fine not exceeding P5 000 or to imprisonment for a term not exceeding 6 months, or to both.

#### **16. No excavation without permission of Minister**

(1) No person shall, without the written permission of the Minister, given after consultation with the Commissioner, and after making such enquiries as he may deem fit, excavate any national monument, ancient monument, recent historic monument, recent artefact or relic or, if he receives such permission, excavate it contrary to any condition which may have been imposed in such permission or which may be prescribed.

(2) The Minister may grant permission in terms of subsection (1) in respect of an ancient monument, recent historic monument, recent artefact or relic, other than a national monument, only with the consent of the owner of the land in or upon which it is situated and of any other person having an interest therein or right thereover.

(3) The Minister may grant permission in terms of subsection (1) in respect of a national monument which shall entitle the grantee to enter upon the land in or upon which such monument is situated with such assistants or servants, animals, vehicles, appliances and instruments as may be necessary for the purpose of excavation and to excavate such monument:

Provided that, in the case of a national monument situated in or upon land which is not State land-

- (i) the consent of the owner of such land and of any person having an interest therein or right thereover to such entry and excavation has been obtained; or payment of such sum of money as may be determined by the High Court on application made by the Minister or by the person seeking the Minister's permission as fair and reasonable compensation to such owner or other person

for such entry and excavation has been made; and

- (ii) any dispute as to the interest or right of any person claiming to have an interest in or right over the land in or upon which the national monument is situated or as to the legality of the exercise by the Minister of the power conferred by this subsection has been determined by the High Court.

(4) A person who contravenes subsection (1) commits an offence and is liable upon conviction to a fine not exceeding P10 000 or to imprisonment for a term not exceeding 1 year, or to both.

#### **17. No archaeological research without permission of Minister**

(1) No person shall, without the written permission of the Minister, given after consultation with the Commissioner, and after making such enquiries as he may deem fit-

- (a) conduct any archaeological research;
- (b) excavate or expose relics or artefacts under the soil, or map, trace or touch rock paintings; or
- (c) if he receives such permission, conduct archaeological research contrary to any condition which may have been imposed in such permission or which may be prescribed.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable upon conviction to a fine not exceeding P10 000 or to imprisonment for a term not exceeding 1 year, or to both.

(3) The permission of the Minister in terms of subsection (1), shall not be deemed to authorise the entry of any person upon any land, other than State land, without the permission of the owner or lawful occupier thereof.

#### **18. No alterations, damage or removal without consent of Minister**

(1) A person shall not, without the written permission of the Minister, given after consultation with the Commissioner-

- (a) make any alterations to, or destroy or damage; or
- (b) remove or allow to be removed from its original site, or export or allow to be exported from Botswana,

any national monument, monument, relic or recent artefact, or any part thereof.

(2) Any national monument, monument, relic or recent artefact which is removed from its original site, shall, unless the Minister's written permission otherwise directs, be removed to the National Museum and Art Gallery or such other place as the Commissioner may direct.

(3) A person who contravenes subsection (1) commits an offence and is liable upon conviction to a fine not exceeding P10 000 or to imprisonment for a term not exceeding 1 year, or to both.

(4) In the case of any national monument, monument, relic or recent artefact, or part thereof, situated in a Tribal Territory, no permission in terms of subsection (1) shall be given

without the concurrence of the Tribal Land Board for that Tribal Territory,

(5) Any person who desires to remove from its original site or to export from Botswana any national monument, monument, relic or recent artefact, or any part thereof shall, when applying to the Minister for his consent, supply the Minister with a drawing or photograph of the national monument, monument, relic or recent artefact, in question, and shall state the exact locality in which it is situated and the place to which and the purpose for which he desires to remove or export it.

(6) Any permission or consent, given in terms of this section, may at any time be withdrawn if any person has, in an application to the Minister for his permission or consent, knowingly made any statement which is false in any material particular or supplied therewith any drawing or photograph which is false in any material particular.

## **19. Pre-development impact assessment**

(1) For the purposes of this section:

"pre-development archaeological impact assessment" means-

- (a) the study, by an archaeologist, of an area in which development or any ground disturbing activity is to be carried out, to determine the likelihood of the development or activity impacting negatively on any cultural material or evidence that may be present in the area to be disturbed; and
- (b) any recommendation made by the archaeologist on how to prevent or mitigate any negative impact to the cultural material or evidence referred to under paragraph (a); and

"environmental impact assessment study" means the study of an area in which development or any ground disturbing activity is to be carried out, to-

- (a) determine the possible extent of damage to the natural environment;
- (b) determine means to-
  - (i) preserve as far as is possible, the natural environment;
  - (ii) minimize and control waste or undue loss of or damage to natural and biological resources;
  - (iii) prevent, and where inevitable, promptly treat pollution or contamination of the environment.

(2) Both an archaeological pre-development impact assessment study and an environmental impact assessment study, shall be caused to be done by any person wishing to undertake major development, such as construction or excavation, for the purposes of mineral exploration and prospecting, mining, laying of pipelines, construction of roads or dams, or erection of any other structure, which will physically disturb the earth's surface.

(3) A report from the studies conducted in terms of subsection (2), shall be furnished to the Commissioner within 60 days of completion of both studies, together with a written application for the development of the area in which the studies have been conducted.

(4) No person shall, without the written permission of the Commissioner, which permission may be given only after the Commissioner has considered the report, and which permission shall include such conditions, if any, as the Commissioner deems necessary, commence such development, or undertake such development contrary to any such condition as may be imposed.

(5) A person who contravenes subsection (4) commits an offence and is liable upon conviction to a fine not exceeding P10 000 or to imprisonment for a term not exceeding 1 year, or to both.

(6) Any permission, given in terms of this section, may at any time be withdrawn if any person has, in an application to the Commissioner for his permission, knowingly made any statement which is false in any material particular or supplied therewith any report, drawing or photograph which is false in any material particular.

(7) Where a development has been undertaken without the written permission of the Commissioner, or where such permission has been withdrawn, and the excavation or construction is suspended in terms of section 12(2)-

- (a) no damages, including consequential damages, of any kind, shall be payable by the State in respect of the suspension; and
- (b) any extra archaeological salvage costs, being costs that would not have been necessary had the salvage work been done before the development had commenced, shall be borne by the person who has undertaken such development.

## **20. Damage to erected tablets and other identification notices**

No person shall deface, damage or destroy any tablet, plaque or other identification notice, caused to be erected by the Commissioner under the powers conferred by section 7(g), and any person who defaces, damages or destroys any such tablet, plaque or other identification notice commits an offence.

## **21. Establishment of Monuments and Relics Fund**

(1) The Monuments and Relics Fund established under section 15 of the repealed Monuments and Relics Act, shall continue in existence under this Act, and shall comprise-

- (a) moneys allocated by the Government for the acquisition, administration, excavation, protection, repair or improvement of national monuments, monuments, protected heritage areas, relics or recent artefacts, or to promote the knowledge and study thereof or public interest therein;
- (b) moneys contributed by any person to the fund for any of the said purposes;
- (c) moneys contributed by any person to the Government for any of the said purposes.

(2) The Commissioner shall be responsible, under the supervision of the Minister, for the management and administration of the Fund, and shall keep proper accounts of the Fund and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts showing in detail the assets, liabilities, revenue and expenditure of the Fund in a form which shall conform with the best commercial standards.

(3) No payment in excess of P5 000 shall be made from the Fund except upon the

authority of the Minister:

Provided that the Minister may delegate to the Commissioner authority to pay recurrent and periodical administrative expenses in excess of P5 000.

(4) The Minister may, in his discretion, sanction payments from the Fund for any of the purposes mentioned in subsection (1), which, without prejudice to the generality thereof, may include-

- (a) the protection of national monuments and of monuments, protected heritage areas, relics and recent artefacts from damage of any kind, including their fencing and repair;
- (b) the payment of wages and remuneration to custodians;
- (c) the investigation, exploration and excavation of national monuments and of monuments, relics and artefacts; or
- (d) the provision of signs at sites of national monuments, monuments, relics, recent artefacts and protected heritage areas, and on roads and routes leading thereto.

(5) The Commissioner shall within four months after the end of each financial year, prepare, sign and submit to the Auditor-General, an account of the Fund in respect of that financial year containing such information and in such form as the Minister may direct.

(6) The Auditor-General shall, as soon as he has completed his examination of the accounts and statements submitted to him, submit them together with his certificate thereon, to the Accountant General who shall within four weeks after their submission to him, submit them together with the Auditor-General's certificate thereon, to the Minister.

(7) The Minister shall, within 30 days after the submission to him of the accounts and statements in accordance with subsection (6), lay them, together with the Auditor-General's certificate thereon, before the National Assembly.

## **22. Arrest, seizure and ejection**

(1) The Commissioner, every inspector and every custodian may arrest without warrant-

- (a) any person who commits an offence under this Act in his presence;
- (b) any person whom he has reasonable grounds to suspect has committed an offence under this Act;
- (c) any person whom he finds attempting to commit an offence under this Act or clearly manifesting an intention to do so.

(2) The Commissioner, every police officer, every inspector and every custodian may take or seize from any person to whom subsection (1)(a), (b), or (c) applies, any article by means of which or in respect of which such person has committed, or is on reasonable grounds suspected of having committed, or is found attempting or clearly manifesting an intention to commit, an offence under this Act.

(3) Any person taking or seizing any article in pursuance of subsection (2) shall without delay deliver it to a judicial officer for sale custody pending the determination of any legal

proceedings which may be instituted in which the said article may be produced in evidence.

(4) The Commissioner, every police officer, every inspector and every custodian may eject from the site owned by or in control of the State, of any national monument, protected heritage area, monument, relic or recent artefact, any person to whom subsection (1)(a), (b) or (c) applies and any person whose presence on such site or whose access to such national monument, protected heritage area, monument, relic or recent artefact is prohibited under the provisions of this Act or regulations made thereunder.

### **23. Offences and penalties**

(1) A person who-

- (a) contravenes a provision of this Act relating to a national monument or a tablet, plaque or other identification notice under section 20;
- (b) knowingly or having reason to believe that a monument, protected heritage area, relic or recent artefact is such, contravenes a provision of this Act relating to such monument, protected heritage area, relic or recent artefact;
- (c) contravenes the provisions of section 12, subsection (1) or (2), or section 17 of this Act; or
- (d) in an application to the Minister for his permission in terms of section 18, knowingly makes a statement which is false in any material respect or supplies therewith a drawing or photograph which is false in any material respect,

commits an offence and is liable upon conviction to a fine not exceeding P10 000 or to imprisonment for a term not exceeding 1 year, or to both.

(2) If a person is convicted of an offence under this Act or any regulations made thereunder which has involved or resulted in damage to, or destruction or removal of, any national monument, monument, relic or recent artefact, any part thereof or any tablet, plaque or other identification notice which the Commissioner has caused to be erected, the court may, in addition to any penalty which it may impose-

- (a) order him to pay such sum as the court may determine for the purpose of repairing such damage or of compensating the State or any person who has sustained loss by the removal or destruction of any article or thing for the value of such article or thing;
- (b) order the confiscation of any article or thing removed and of any tool or implement used in committing such offence.

### **24. Regulations**

The Minister may make regulations-

- (a) prescribing anything which in terms of this Act is to be prescribed;
- (b) regulating the access of the public to any national monuments, monuments, relics, recent artefacts or protected heritage areas which are the property of the State or, in a manner not in consistent with any agreement made under section 9, to national monuments, monuments, relics, recent artefacts or protected heritage area; which

by agreement with the owner are under the custody or control of the State;

- (c) fixing fees which shall be payable for such access;
- (d) regulating the excavation of national monuments, monuments, relics and recent artefacts, and the removal of relics or recent artefacts from national monuments or monuments;
- (e) generally for the better carrying out of the provisions of this Act.

## **25. Savings**

Notwithstanding the repeal of the Monuments and Relics Act-

- (a) anything declared or deemed to be a national monument under the repealed Act immediately before the commencement of this Act shall, unless the declaration is cancelled under section 10(2) of this Act, be deemed to be a national monument for the purposes of this Act;
- (b) any statutory instrument, or any appointment, made under the repealed Act immediately before the commencement of this Act shall continue in force as if such instrument or appointment had been made under this Act;
- (c) any agreement entered into (between the Minister and the owner of any national monument, for its protection or preservation) under the repealed Act immediately before the commencement of this Act shall continue in force as if such agreement had been made under this Act.