

THE TAMIL NADU ANCIENT AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1966

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**CONSOLIDATED TABLE SHOWING THE PROVISIONS OF THE MADRAS ANCIENT
AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS
ACT, 1966 AND THE CORRESPONDING PROVISIONS OF THE STATE ACTS**

. . . 1.1357

The Ancient Monuments Preservation Act, 1904 (7 of 1904), has ceased to have effect in relation to ancient and historical monument and archaeological sites and remains declared by or under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958) except for the things done or omitted to be done before the commencement of the later Act. Some States have enacted separate legislation on the subject applicable to the respective States. Taking Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1966 (Tamil Nadu Act 25 of 1966), as the Principal Act, the provisions of the Tamil Nadu Act as well as similar or substantially similar provisions of other State Acts have been given. Where the Tamil Nadu Act does not contain any provision similar to the other State Acts such different provisions have been separately printed under the respective State heading in the relevant place in Tamil Nadu Act.

THE TAMIL NADU ANCIENT AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1966

(Tamil Nadu Act 25 of 1966)

An Act to provide for the preservation of ancient and historical monuments and archaeological sites and remains other than those of national importance, for the regulation of archaeological excavation and for the protection of sculptures, carvings and other like objects.

BE it enacted by the Legislature of the State of Tamil Nadu in the Seventeenth year of the Republic of India as follows:—

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called The ¹[Tamil Nadu] Ancient and Historical Monument and Archaeological Sites and Remains Act, 1966.

(2) It extends to the whole of the State of ¹[Tamil Nadu].

(3) It shall come into force on such date² as the Government may, by notification, appoint.

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

(a) “ancient monument” means any structure, erection or monument or any tumulus or place of interment, or any cave, rock-sculpture, inscription, or monolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than one hundred years and includes—

(i) the remains of an ancient monument,

(ii) the site of an ancient monument,

1. Subs. by Tamil Nadu A.O. 1969, for “Madras”.

2. Came into force on 15-1-1969, vide Fort St. George Gazette, Pt. II, sec. 3, p. 30, dated 8th January 1969.

- (iii) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument,
- (iv) the gardens, if any, appurtenant to an ancient monument, and
- (v) the means of access to, and convenient inspection of, an ancient monument,

but does not include any ancient or historical monument declared by or under law made by Parliament to be of national importance;

[Tamil Nadu—section 2(a); Assam—section 2(a); Gujarat—section 2(1); Jammu and Kashmir—section 2(1); Madhya Pradesh—section 2 (a); Maharashtra—section 2(1); Karnataka—section 2(1); Orissa—section 2(a); Punjab—section 2(a); Rajasthan—section 2(1); Andhra Pradesh—section 2(a); West Bengal—section 2(3).]

- (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 declared by the Government, by notification, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years;

[Tamil Nadu—section 2(b); Andhra Pradesh—section 2(b); Gujarat—section 2(2); Jammu and Kashmir—section 2(2); Madhya Pradesh—section 2(b); Maharashtra—section 2(2); Karnataka—section 2(2); Punjab—section 2(b); Rajasthan—section 2(2).]

- (c) "archaeological officer" means any officer appointed by the Government, by notification, to be an archaeological officer for the purposes of this Act for such area as may be specified in the notification;

[Tamil Nadu—section 2(c); Andhra Pradesh—section 2(c); Gujarat—section 2(3); Maharashtra—section 2(3); Punjab—section 2(c); Rajasthan—section 2(3).]

- (d) "archaeological site and remains" means any areas 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 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;

but does not include any archaeological site or remains declared by or under law made by Parliament to be of national importance;

[Tamil Nadu—section 2(d); Andhra Pradesh—section 2(d); Gujarat—section 2(4); Karnataka—section 2(3); Madhya Pradesh—section 2(c); Maharashtra—section 2(4); Punjab—section 2(d); Rajasthan—section 2(4).]

STATE AMENDMENTS

“Central Act”

Rajasthan.—Section 2(v).—“Central Act” means the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958) as amended from time to time;

“Collector”

Gujarat.—Section 2(5).—“Collector” includes any officer authorised by the State Government to perform all or any of the functions of a Collector by or under this Act;

Maharashtra.—Section 2(5).—“Collector” means in the City of Bombay the Collector of Bombay and elsewhere the Collector of the District and includes any officer authorised by the State Government to perform all or any of the functions of a Collector by or under this Act.

West Bengal.—Section 2(1).—“Collector” means the Collector of a district.

“Commissioner”

Orissa.—Section 2(b).—“Commissioner” means any officer authorised by the State Government to perform the duties of a Commissioner under this Act.

West Bengal.—Section 2(2).—Same as that of Orissa except that the definition uses the word ‘includes’ in place of the word ‘means’.

- (e) “Director” means the Director of Archaeology and includes any officer authorised by the Government, by notification, to exercise the powers conferred on, and discharge the duties imposed upon, the Director under this Act;

[Tamil Nadu—section 2(e); Gujarat—section 2(6); Madhya Pradesh—section 2(d); Maharashtra 2(6); Karnataka—section 2(4); Punjab—section 2(a); Rajasthan 2(6); Andhra Pradesh—section 2(e).]

- (f) “Government” means the State Government;

[Tamil Nadu—section 2(f); Andhra Pradesh—section 2(f); Karnataka—section 2(5); Punjab—section 2(f).]

STATE AMENDMENTS

“Historical object”

West Bengal.—Section 2(4).—“historical object” means—

- (a) any document, manuscript, printed matter, picture or painting or any movable object or any matter containing any inscription or carving,
- (b) any movable object other than those specified above, which the State Government by reason of its historical association, considers it necessary to protect against destruction, injury, alteration, mutilation, defacement, removal, dispersion or falling into decay;

“Land”

Assam.—Section 2(b).—“Land” includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such an estate or tenure be subject to encumbrances or not.

Jammu and Kashmir.—Section 2(5).—Same as that of Assam.

"Land Acquisition Act"

Gujarat.—Section 2(7).—"Land Acquisition Act" means the Land Acquisition Act, 1894, as applicable in the State of Gujarat:

- (g) "maintain" with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;

[Tamil Nadu—section 2(g); Assam—section 2(c); Gujarat—section 2(8); Jammu and Kashmir—section 2(4); Madhya Pradesh—section 2(e); Maharashtra—section (7); Karnataka—section 2(6); Orissa—section 2(c); Punjab—section 2(g); Rajasthan—section 2(7); West Bengal—section 2(5); Andhra Pradesh—section 2(g).]

STATE AMENDMENT***"Minister"***

Jammu and Kashmir.—Section 2(5A).—"Minister" means the Minister-in-charge of the Archaeological Department.

- (h) "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;

[Tamil Nadu—section 2(h); Assam—section 2(d); Gujarat—section 2(9); Jammu and Kashmir—section 2(6); Madhya Pradesh—section 2(f); Maharashtra—section 2(8); Karnataka—section 2(7); Orissa—section 2(d); Punjab—section 2(h); Rajasthan—section 2(8); West Bengal—section 2(6); Andhra Pradesh—section 2(h).]

STATE AMENDMENTS***"Prescribed"***

Andhra Pradesh.—Section 2(i).—"prescribed" means prescribed by rules made under this Act.

[Assam—section 2(e); Gujarat—section 2(10); Maharashtra—section 2(9); Karnataka—section 2(8); Punjab—section 2(i), Rajasthan—section 2(ix).]

"Protected"

Rajasthan.—Section 2(x).—"protected", when used with reference to an ancient or historical monument or an archaeological site, means such monument or site which may be declared by the State Government under section 3 to be a protected monument or a protected area.

"Protected antiquity"

Rajasthan.—Section 2(xi).—"protected antiquity" means an antiquity declared by the State Government under section 3 to be a protected antiquity and includes any article, object or thing referred to in sub-clause (b) of clause (ii).

- (i) "protected area" means any archaeological site and remains which is declared to be a protected area under this Act,

[Tamil Nadu—section 2(i); Gujarat—section 2(11); Madhya Pradesh—section 2(g), Maharashtra—section 2(10); Karnataka—section 2(9); Punjab—section 2(j); Rajasthan—section 2(10); Andhra Pradesh—section 2(j).]

- (j) “protected monument” means any ancient monument which is declared to be a protected monument under this Act.

[Tamil Nadu—section 2(j); Andhra Pradesh—section 2(k), Gujarat—section 2(2) and—section 3; Madhya Pradesh—section 2(h); Maharashtra—section 2(11); Karnataka—section 2(10); Punjab—section 2(k).]

STATE AMENDMENT

“Protected monument”

Gujarat.—Section 2(12).—“protected monument” means an ancient and historical monument which is deemed or declared to be protected monument by or under this Act.

Gujarat

CHAPTER II

PROTECTED MONUMENTS

3. *Certain ancient and historical monuments deemed to be protected monuments.*—All ancient and historical monuments in the State of Gujarat, which, before the commencement of this Act, have been declared by or under the Saurashtra Ancient Monuments Preservation Act, 1956, to be protected monuments, and have not been declared by or under any law made by Parliament to be of national importance, shall be deemed to be protected monuments for the purposes of this Act.

Karnataka.—Section 2(10).—“protected monument” means an ancient monument which is declared to be protected by or under this Act.

PROTECTED MONUMENTS

3. *Ancient and historical monuments and archaeological sites and remains deemed to be protected monuments and areas.*—All ancient, and historical monuments and all archaeological sites and remains which have been declared by the Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), or the Ancient Monuments Preservation Act, 1337 F. (Hyderabad Act VIII of 1337 F) or the Mysore Ancient Monuments Preservation Act, 1925 (Mysore Act IX of 1925), to be protected monuments but which have not been declared by or under law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be protected monuments or protected areas, as the case may be, under this Act.

Maharashtra

PROTECTED MONUMENTS

3. *Certain ancient and historical monuments deemed to be protected monuments.*—All ancient and historical monuments in the State of Maharashtra which before the commencement of this Act have been declared by or under the Ancient Monuments Preservation Act to be protected monuments, and have not been declared by or under any law made by Parliament to be of national importance, shall be deemed to be protected monuments for the purposes of this Act.

Punjab

PROTECTION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS

3. *Certain ancient and historical monuments etc., deemed to be protected monuments, or areas.*—All ancient and historical monuments and all archaeological sites and remains

which have been declared by the Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), to be protected monuments or protected areas respectively, but which have not been declared by or under the law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archaeological sites and remains declared to be protected monuments or areas for the purposes of this Act.

"Superintendent"

Assam.—Section 2(f).—"Superintendent" means the Superintendent of Archaeology, and includes any officer authorised by the State Government to perform the duties of the Superintendent.

PROTECTION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS

3. Power of Government to declare ancient monuments, etc., to be protected monuments and areas.—(1) Where the Government are of opinion that any ancient monument or archaeological site and remains requires protection under this Act, they may, by notification, give two months' notice of their intention to declare such ancient monument or archaeological site and remains to be a protected monument or a protected area, as the case may be, and a copy of every such notification shall be affixed in a conspicuous place near the monument or the site and remains, as the case may be.

(2) Any person interested in any such ancient monument or archaeological site and remains may, within two months after the issue of the notification, object to the declaration of the monument, or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.

(3) On the expiry of the said period of two months, the Government may, after considering the objections, if any, received by them, declare by notification, the ancient monument or the archaeological site and remains, as the case may be, to be a protected monument or a protected area.

(4) A notification issued under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient monument or the archaeological site and remains to which it relates, is a protected monument or a protected area for the purposes of this Act.

[Tamil Nadu—section 3; Andhra Pradesh—section 4; Assam—section 3; Gujarat—section 4; Jammu and Kashmir—section 3; Karnataka—section 4; Madhya Pradesh—section 3; Maharashtra—section 4; Orissa—section 3; Punjab—section 4; Rajasthan—section 3; West Bengal—section 3.]

PROTECTED MONUMENTS

4. Acquisition of rights in a protected monument.—(1) The Director may, with the sanction of the Government, purchase, or take a lease of, or accept a gift or bequest of, any protected monument.

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

(3) The owner of any protected monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with the sanction of the Government, accept such guardianship.

(4) When the Director has accepted the guardianship of a 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; and the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under sub-section (3).

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

[Tamil Nadu—section 4; Andhra Pradesh—section 5; Assam—section 4; Gujarat—section 5; Jammu and Kashmir—section 4; Karnataka—section 5; Madhya Pradesh—section 4; Maharashtra—section 5, Orissa—section 4; Punjab—section 5; Rajasthan—section 4; West Bengal—section 4.]

5. Preservation of protected monument by agreement.—(1) The Director, when so directed by the Government, shall propose to the owner of a protected monument to enter into an agreement with the 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 or to archaeological officers or to persons deputed by the owner or any archaeological officer or other officer or authority authorised by the Government to inspect or maintain the monument;
- (e) the notice to be given to the 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 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 Government in connection with the maintenance of the monument;
- (g) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the 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 Government.

(3) The 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 Government the expenses, if any, incurred by them 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.

(4) 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.

[Tamil Nadu—section 5; Andhra Pradesh—section 6; Assam—section 5; Gujarat—section 6; Jammu and Kashmir—section 5; Karnataka—section 6; Madhya Pradesh—section 5; Maharashtra—section 6; Orissa—section 5; Punjab—section 6; Rajasthan—section 5; West Bengal—section 5.]

6. Persons competent to exercise power of owner under section 5, in respect of a protected monument, when owner is under disability or when it is a village property.—(1) If the owner of a protected monument is unable, by reason of minority 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.

(2) In the case of a protected monument which is a village property, the headman or other village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

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

[Tamil Nadu—section 6; Andhra Pradesh—section 7; Assam—section 6; Gujarat—section 7; Jammu and Kashmir—section 6; Karnataka—section 7; Madhya Pradesh—section 6; Maharashtra—section 7; Orissa—section 6; Punjab—section 7; Rajasthan—section 6; West Bengal—section 7.]

7. Application of endowment to repair a protected monument.—(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the Government may institute a suit in the Madras City Civil Court if the protected monument is situated in the Presidency-town or in the Court of the District Judge if the protected monument is situated elsewhere, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the Madras City Civil Court, or the Court of the District Judge, as the case may be, for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the Madras City Civil Court or the Court of the District Judge may, summon and examine the owner and any person whose evidence appears to the Court necessary and may

pass an order for the proper application of the endowment or any part thereof, and any such order may be executed as if it were a decree of a Civil Court.

[Tamil Nadu—section 7; Andhra Pradesh—section 8; Assam—section 7; Gujarat—section 8; Jammu and Kashmir—section 9; Karnataka—section 8; Madhya Pradesh—section 7; Maharashtra—section 8; Orissa—section 9; Punjab—section 8; Rajasthan—section 8; West Bengal—section 9.]

8. Failure or refusal to enter into an agreement.—(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance of a protected monument refuses or fails to enter into such an agreement, the Government may make an order providing for all or any of the matters specified in sub-section (2) 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 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 against the proposed order.

[Tamil Nadu—section 8; Andhra Pradesh—section 9; Assam—section 8; Gujarat—section 9; Madhya Pradesh—section 8; Maharashtra—section 9; Karnataka—section 9; Punjab—section 9; Rajasthan—section 7.]

9. Power to make order prohibiting contravention of agreement under section 5.—(1) If the Director apprehends that the owner or occupier of a protected monument intends to destroy, remove, injure, alter, deface, imperil, or misuse the monument or to build on or near the site thereof in contravention of the norms of an agreement executed under section 5, the Director may, after giving the owner or occupier an opportunity of making a representation, make an order prohibiting any such contravention of the agreement:

Provided that no such opportunity need 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 made under this section may appeal to the Government within such time and in such manner as may be prescribed, and the decision of the government shall be final.

[Tamil Nadu—section 9; Andhra Pradesh—section 10; Assam—section 9; Gujarat—section 10; Madhya Pradesh—section 9; Maharashtra—section 10; Karnataka—section 10; Punjab—section 10; Rajasthan—section 10.]

10. Enforcement of agreements.—(1) If an owner or other person who is bound to maintain a monument by an agreement executed 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 Government whose decision shall be final.

[Tamil Nadu—section 10; Andhra Pradesh—section 11; Assam—section 10. Gujarat—section 11; Jammu and Kashmir—section 7; Karnataka—section 11; Madhya Pradesh—section 10; Maharashtra—section 11; Orissa—section 7; Punjab—section 11; Rajasthan—section 9; West Bengal—section 7.]

11. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.—Every person who purchases, at a sale for arrears of land venue 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 title to a monument from, through, or under, an owner who executed any such instrument, shall be bound by such instrument.

[Tamil Nadu—section 11; Andhra Pradesh—section 12; Assam—section 11. Gujarat—section 12; Jammu and Kashmir—section 8; Karnataka—section 12; Madhya Pradesh—section 11; Maharashtra—section 12; Orissa—section 8; Punjab—section 12; Rajasthan—section 11; West Bengal—section 8.]

12. Acquisition of protected monument.—If the Government are of opinion that a protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay, they may acquire the protected monument under the provisions of the Land Acquisition Act, 1894 (Central Act I of 1894), as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

[Tamil Nadu—section 12; Andhra Pradesh—section 13; Assam—section 12. Gujarat—section 13; Jammu and Kashmir—section 10; Karnataka—section 13; Madhya Pradesh—section 12; Maharashtra—section 13; Orissa—section 10; Punjab—section 13; Rajasthan—section 12; West Bengal—section 10.]

STATE AMENDMENTS

Jammu and Kashmir

10A. Power of Government to control mining etc., near ancient monument.—(1) If the Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Government may, by notification in the Government Gazette, make rules—

- (a) fixing the boundaries of the area to which the rules are to apply,
- (b) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and
- (c) prescribing the authority by which and the terms on which licences may be granted to carry on any of the said operations.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any person or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the Government that he has sustained loss by reason of such land being so included, the Government shall pay compensation in respect of such loss.

West Bengal

Section 11.—Same as section 10A of Jammu and Kashmir.

13. Maintenance of certain protected monuments.—(1) The 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.

(2) When the Director has assumed the guardianship of a 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.

[Tamil Nadu—section 13; Assam—section 13. Gujarat—section 14; Jammu and Kashmir—section 11; Madhya Pradesh—section 13; Maharashtra—section 14; Karnataka—section 14; Orissa—section 11; Punjab—section 14; Rajasthan—section 13; Andhra Pradesh—section 14; West Bengal—section 12.]

14. Voluntary contributions.—The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may issue orders for the management and application of the contribution so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

[Tamil Nadu—section 14; Andhra Pradesh—section 15; Assam—section 14. Gujarat—section 15; Jammu and Kashmir—section 12; Karnataka—section 15; Madhya Pradesh—section 14; Maharashtra—section 15; Orissa—section 12; Punjab—section 15; Rajasthan—section 14; West Bengal—section 13.]

15. Protection of place of worship from misuse.—A protected monument maintained by the Government under this Act, which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.

[Tamil Nadu—section 15; Andhra Pradesh—section 16; Assam—section 15; Gujarat—section 16; Jammu and Kashmir—section 13; Karnataka—section 16; Madhya Pradesh—section 15; Maharashtra—section 16; Orissa—section 13; Punjab—section 16; Rajasthan—section 15.]

STATE AMENDMENTS**Gujarat**

17. Preservation of amenities of protected monuments.—(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 action, by notification in the Official Gazette, 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"),—

(a) prohibit or restrict the construction, erection or execution of building, structures and other works above ground 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, design, materials, colour and screening and otherwise regulate the external appearance of buildings, structures and other works above ground 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 forty-five days before issuing a notification under sub-section (1), the State Government shall cause to be published in the Official Gazette, in the controlled area, and in the village and at the headquarters of the taluka or mahal of the district 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 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 official 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 such objection has been made, the State Government may, after all the objections have been considered or heard, as the case may be, either—

(a) abandon the proposal 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) 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 above ground 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 27, be entitled to obtain compensation in respect thereof from the State Government.

27. Special provision as to compensation under section 17.—(1) No person shall be entitled to compensation under sub-section (6) of section 17 unless, within three months from the date on which the notification issued under sub-section (1) of that section 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 such manner as may be prescribed by the State.

(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 the notification referred to in sub-section (1) 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 on account 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 enactment, no compensation shall be payable by reason of any property being injuriously affected by that provision if compensation therefor has been paid or could have been claimed, or was not payable, under the provision before its inclusion in the notification.

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

(a) if no compensation would have been payable by reason of the inclusion of that provision in that scheme, order, regulation or bye-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 under sub-section (6) of section 17 shall be determined in accordance with the provisions of section 26.

Madhya Pradesh

Section 16.—Same as section 17 in Gujarat.

Section 27.—Same as section 27 in Gujarat.

Maharashtra

Section 17.—Same as section 17 in Gujarat.

Section 29.—Same as section 27 in Gujarat.

Rajasthan

Section 19.—Same as section 17 of Gujarat Act except that for sub-section (6) of Gujarat read the following:—

“(6) if any person contravenes any of the provisions of a notification issued under sub-section (1), he shall, on conviction, be punished with fine not exceeding one hundred rupees for every day on which the contravention occurs or continues.

(7) if, after any person has been convicted under sub-section (6) by reason of the fact that any building, structure or other work is not in conformity with the provisions of the notification issued under sub-section (1), the contravention continues after the expiration of such period as the Court before whom he was convicted may determine, the State Government shall 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 aforesaid for making it conform with the provisions of the notification and any expenses incurred by the State Government in so doing shall be recoverable as an arrear of land revenue from the person convicted.”

16. Relinquishment of Government right in a monument.—With the sanction of the Government, the Director may,—

(a) where rights have been acquired by the Director in respect of any monument under this Act, by virtue of any sale, lease, gift or will, relinquish, by notification, the 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; or

- (b) relinquish any guardianship of a monument which he has assumed under this Act.

[Tamil Nadu—section 16; Andhra Pradesh—section 17; Assam—section 16; Gujarat—section 18; Jammu and Kashmir—section 14; Madhya Pradesh—section 17; Maharashtra—section 18; Karnataka—section 17; Orissa—section 14; Punjab—section 17; Rajasthan—section 16; West Bengal—section 14.]

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

[Tamil Nadu—section 17; Andhra Pradesh—section 18; Assam—section 17; Gujarat—section 19; Jammu and Kashmir—section 15; Karnataka—section 18; Madhya Pradesh—section 18; Maharashtra—section 19; Orissa—section 15; Punjab—section 18; Rajasthan—section 20; West Bengal—section 15.]

PROTECTED AREAS

18. Restrictions on enjoyment of property rights in protected areas.—(1) No person, including the owner or occupier of a protected area, shall construct any building within the 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 Government:

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 0.5 metre of soil from the surface.

(2) The Government may, by order, direct that any building constructed by any person within a 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 Director may cause the building to be removed and the person shall be liable to pay the cost of such removal.

[Tamil Nadu—section 18; Andhra Pradesh—section 19; Gujarat—section 21; Karnataka—section 20; Madhya Pradesh—section 19; Maharashtra—section 21; Orissa—section 19; Punjab—section 19; Rajasthan—section 22.]

STATE AMENDMENTS

Gujarat

CHAPTER III

PROTECTED AREAS

20. Power of State Government to declare archaeological sites and remains to be protected areas.—(1) Where the State Government is of opinion that any archaeological site and remains, not declared by or under any law made by Parliament to be of national importance, should be a protected area, it may, by notification in the official Gazette, give two months' notice of its intention to declare such archaeological site and remains to be a protected area, and a copy of every such notification shall be affixed in a conspicuous place near the site and remains.

(2) If any person interested in any such archaeological site and remains has any objection to the same being declared a protected area, he may, within two months of the publication of the notification under sub-section (1), submit his objection in writing to the State Government.

(3) On the expiry of the said period of two months, the State Government may, after considering the objections, if any, received by it under sub-section (2), declare by notification in the official Gazette the archaeological site and remains to be a protected area.

(4) A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the archaeological site and remains to which it relates is a protected area for the purposes of this Act.

Maharashtra

Section 20.—Same as section. 20 of Gujarat.

Rajasthan

18. Power to control mining, etc., near protected monuments.—(1) If the State Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any protected monument, the State Government may, by notification in the official Gazette, make rules—

- (a) fixing the boundaries of the area to which the rules are to apply;
- (b) forbidding the carrying on of mining, quarrying, excavating, blasting or other operations of a like nature except in accordance with such rules and otherwise than under and in accordance with terms of a licence; and
- (c) prescribing the authority by which, and the terms on which licences may be granted to carry on any of the said operations.

(2) A rule made under this section may provide that any person committing a breach hereof shall be punishable with fine which may extend to two hundred rupees.

19. Power to acquire a protected area.—If the Government are of opinion that any protected area contains an ancient monument or antiquities of regional interest and value, they may acquire such area under the provisions of the Land Acquisition Act, 1894 (Central Act I of 1894), as if the acquisition were for a public purpose within the meaning of that Act.

[Tamil Nadu—section 19; Andhra Pradesh—section 20; Gujarat—section 22; Jammu and Kashmir—section 20(c); Karnataka—section 21; Madhya Pradesh—section 20; Maharashtra—section 22; Orissa—section 22; Punjab—section 20; Rajasthan—section 21; West Bengal—section 19.]

ARCHAEOLOGICAL EXCAVATIONS

20. Excavations in protected areas.—Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958), an archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf under this Act (hereafter in this Act referred to as the licensee) may, after, giving notice in writing to the Director and the owner, enter upon and make excavations in any protected areas.

[Tamil Nadu—section 20; Andhra Pradesh—section 21; Jammu and Kashmir—section 20A; Karnataka—section 19; Madhya Pradesh—section 21; Maharashtra—section 23; Orissa—section 20; Punjab—section 21; Rajasthan—section 23.]

21. Excavation in areas other than protected areas.—Subject to the provisions of section 24 of the Ancient Monuments and Archaeological Sites and Remains Act, 1959 (Central Act 24 of 1958), where an archaeological officer has reason to believe that any area not being a protected area, contains ruins or relics

of historical or archaeological importance, he or an officer authorised by him in this behalf may, after giving notice in writing to the Director and the owner, enter upon and make excavations in the area.

[Tamil Nadu—section 21; Andhra Pradesh—section 22; Punjab—section 22.]

STATE AMENDMENTS

West Bengal

21. *Power of State Government to make rules regulating archaeological excavations in State-protected archaeological sites.*—(1) The State Government may make rules—

- (a) prescribing the authorities by whom licences to excavate for archaeological purposes in a State-protected site may be granted;
- (b) regulating the conditions on which such licences may be granted, the form of such licences, and the taking of security from licensees;
- (c) prescribing the manner in which antiquities found by a licensee shall be divided between the State Government and the licensee; and
- (d) generally to carry out the purposes of section 19.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) Such rules may be general for all State-protected archaeological sites for the time being, or may be special for any particular protected site or sites.

(4) Such rules may provide that any person committing a breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees and may further provide that, where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

22. *Compulsory purchase of antiquities, etc., discovered during excavation operations.*—(1) Where, as a result of any excavations made in any area under section 20 or section 21, any antiquities are discovered, the archaeological officer or the licensee, as the case may be, shall,—

- (a) as soon as practicable, examine such antiquities and submit a report to the 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, as to the nature of such antiquities.

(2) Until an order for the compulsory purchase of any such antiquities is made under sub-section (3), the archaeological officer 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 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 Government with effect from the date of the order.

[Tamil Nadu—section 22; Andhra Pradesh—section 23; Karnataka—section 23; Madhya Pradesh—section 22; Maharashtra—section 24; Punjab—section 23; Rajasthan—section 25.]

STATE AMENDMENT

Jammu and Kashmir

ARCHAEOLOGICAL EXCAVATION

20. *Power of Government to notify Jammu and Kashmir areas as protected.*—(1) If the Government is of opinion that excavation for archaeological purposes in any area should be restricted or regulated in the interest of archaeological research, the Government may, by notification in the Government Gazette specifying the boundaries of the area, declare it to be a protected area.

(2) From the date of such notification all antiquities buried in the protected area shall be the property of Government and shall be deemed to be in the possession of the Government and shall remain the property and in the possession of the Government until ownership thereof is transferred; but in all other respects the rights of any owner or occupier of land in such area, shall not be affected.

23. *Excavation, etc., for archaeological purposes.*—Subject to the provisions of section 20 and save as provided in sections 21 and 22, no archaeological officer or other authority, shall undertake, or authorise any person to undertake any excavation or other like operation for archaeological purposes in any area which is not a protected area except with the previous approval of the Government and in accordance with such rules or directions, if any as the Government may make or give in this behalf.

[Tamil Nadu—section 23; Andhra Pradesh—section 24; Jammu and Kashmir—section 20B; Orissa—section 21; Punjab—section 24; Rajasthan—section 24; West Bengal—section 20.]

STATE AMENDMENT

Rajasthan

26. *Contraventions of chapter.*—Whoever does any act in contravention of the provisions of this chapter for which contravention no punishment is provided for elsewhere therein, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

27. *Regulation of excavations in protected areas.*—(1) The State Government may make rules—

- (a) prescribing the authorities by whom licences to excavate for archaeological and historical purposes in a protected area may be granted;
- (b) regulating the conditions on which such licences may be granted, the form of such licences and the taking of security from licensees;
- (c) prescribing the manner in which antiquities found by a licensee shall be disposed of; and
- (d) generally to carry out the purposes of this chapter.

(2) Such rules may be general for all protected areas for the time being or may be special for any particular protected area or areas and may provide that any person committing a breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees, and may further provide that, where the breach has been by the agent or servant of a licensee, the licensee himself shall be punishable.

PROTECTION OF ANTIQUITIES

24. *Power of Government to control moving of antiquities.*—(1) If the Government consider that any antiquities or class of antiquities ought not to be moved from the place where they are without their sanction, the Government

may, by notification, direct that any such antiquity or any class of such 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 under sub-section (1) may, appeal to the Government within such time and in such manner as may be prescribed, and the decision of the Government shall be final.

[Tamil Nadu—section 24; Andhra Pradesh—section 25; Gujarat—section 23; Jammu and Kashmir—section 18; Madhya Pradesh—section 23; Maharashtra—section 25; Orissa—section 17; Punjab—section 25; Rajasthan—section 28; West Bengal—section 17.]

STATE AMENDMENT

Jammu and Kashmir

TRAFFIC IN ANTIQUITIES

17. *Power of Government to control traffic in antiquities.*—(1) If the Government apprehends that antiquities are being sold or removed to the detriment of the State or of any neighbouring country, it, may, by notification in the Government Gazette, prohibit or restrict the bringing or taking of any antiquities or class of antiquities described in the notification into or out of the State or any specified part of the State.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of the State or any part of the State in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) A Revenue Officer not lower in rank than a Naib-Tahsildar, an Officer of Customs, or an Officer of Police of a grade not lower than Assistant Inspector or Deputy Inspector, duly empowered by the Government in this behalf, may search any vessel, cart or other means of conveyance and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised may address his complaint to the Government and the Government shall pass such order and may award such compensation, if any, as appears to it to be just.

25. Purchase of antiquities by Government.—(1) If the Government are of opinion that any antiquity mentioned in a notification issued under sub-section (1) of section 24 is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or that, by reason of its historical or archaeological importance, it is desirable to preserve such antiquity in a public place, the 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 given under sub-section (1) in respect of any antiquity, such antiquity shall vest in the Government with effect from the date of the notice.

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

[Tamil Nadu—section 25; Andhra Pradesh—section 26; Gujarat—section 24; Jammu and Kashmir—section 19; Madhya Pradesh—section 24; Maharashtra—section 26; Punjab—section 26; Rajasthan—section 29; West Bengal—section 18.]

PRINCIPLES OF COMPENSATION

26. Compensation for loss or damage.—Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by 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 Government for such loss, damage or diminution of profits.

[Tamil Nadu—section 26; Andhra Pradesh—section 27; Assam—section 18; Gujarat—section 25; Madhya Pradesh—section 25; Maharashtra—section 27; Punjab—section 27; Karnataka—section 24; Orissa—section 18; Rajasthan—section 31.]

27. Assessment of market value or compensation.—(1) The market value of any property which the Government is empowered to purchase at such value under this Act, or the compensation to be paid by the Government 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 (Central Act I of 1894), so far as they can be made applicable.

(2) Notwithstanding anything contained in sub-section (1) or in the Land Acquisition Act, 1894 (Central Act I 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 22 or under sub-section (1) of section 25, any increase in the value of the antiquity by reason of its being of historical or archaeological importance shall not be taken into consideration

[Tamil Nadu—section 27; Andhra Pradesh—section 28; Assam—section 19; Gujarat—section 26; Jammu and Kashmir—section 21; Karnataka—section 25; Madhya Pradesh—section 26; Maharashtra—section 28; Orissa—section 23; Punjab—section 28; Rajasthan—section 32; West Bengal—section 22.]

MISCELLANEOUS

28. Delegation or powers by the Government.—(1) The Government may, by notification, authorise any officer or authority subordinate to them to exercise any one or more of the powers vested in them by or under this Act; except the power to make rules under any of the provisions of this Act, and may in like manner withdraw such authority.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification, and also to control and revision by the Government or by such officer or authority subordinate to them as may be empowered by them in this behalf. The Government shall also have power to control and revise the acts or proceedings of any officer or authority so empowered.

[Tamil Nadu—section 28; Andhra Pradesh—section 29; Gujarat—section 29; Madhya Pradesh—section 28; Maharashtra—section 31; Punjab—section 29; Rajasthan—section 33.]

STATE AMENDMENTS

Gujarat

CHAPTER VI

MISCELLANEOUS

28. *State Advisory Board*.—(1) For the purpose of advising the State Government in the matter of the preservation and maintenance of protected monuments and protected areas, and such other matters incidental to the administration of this Act as may be referred to it by the State Government, the State Government may constitute a State Advisory Board under such name as it may specify.

(2) The constitution of the Advisory Board, the term of office of its members and the procedure regarding its work, shall be such as may be prescribed.

(3) The members of the Board shall be entitled to payment of such travelling allowance, as may be prescribed.

Maharashtra.—Section 30.—Same as section 28 in Gujarat.

Rajasthan.—Section 30.—Same as section 28 in Gujarat omitting sub-section (3).

Gujarat

30. *Power to issue directions*.—Notwithstanding anything contained in this Act, the State Government may from time to time issue directions for the guidance of its officers in matters connected with the administration of this Act, and the officers shall comply with such directions.

Maharashtra.—Section 32.—Same as section 30 in Gujarat.

29. Penalties.—(1) Whoever—

- (i) destroys, removes, injures, alters, defaces, imperils or misuses a protected monument, or encroaches upon or builds on such monument or site thereof, or
- (ii) being the owner or occupier of a 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 protected monument any sculpture, carving, image, bas-relief, inscription or other like object, or
- (iv) does any act in contravention of sub-section (1) of section 18, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(2) Any person who moves any antiquity in contravention of a notification issued under sub-section (1) of section 24 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.

[Tamil Nadu—section 29; Andhra Pradesh—section 30; Assam—section 20; Gujarat—section 31; Jammu and Kashmir—section 16; Karnataka—section 26; Madhya Pradesh—section 29; Maharashtra—section 33; Orissa—section 16; Punjab—section 30; Rajasthan—section 17; West Bengal—section 16.]

30. *Jurisdiction of criminal courts*.—No court inferior to that of a Presidency Magistrate or a Magistrate of the first-class shall try any offence under this Act.

[Tamil Nadu—section 30; Andhra Pradesh—section 31; Assam—section 21; Gujarat—section 32; Jammu and Kashmir—section 22; Karnataka—section 27; Madhya Pradesh—section 30; Maharashtra—section 34; Orissa—section 24; Punjab—section 31; Rajasthan—section 34; West Bengal—section 23.]

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

[Tamil Nadu—section 31; Andhra Pradesh—section 32; Assam—section 22; Gujarat—section 33; Madhya Pradesh—section 31; Maharashtra—section 35; Karnataka—section 28; Punjab—section 32; Rajasthan—section 35(a).]

32. Special Provision regarding fine.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), it shall be lawful for any Magistrate of the first class specially empowered by the Government in this behalf and for any Presidency 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.

[Tamil Nadu—section 32; Andhra Pradesh—section 33; Gujarat—section 34; Madhya Pradesh—section 32; Maharashtra—section 36; Punjab—section 33; Rajasthan—section 35(b).]

33. Offences by companies.—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or, other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

34. Recovery of amounts due to the Government.—Any amount due to the Government from any person under this Act may, on a certificate issued by the Director or an archaeological officer authorised by him in this behalf be recovered in the same manner as an arrear of land revenue.

[Tamil Nadu—section 34; Andhra Pradesh—section 34; Gujarat—section 35; Karnataka—section 29; Madhya Pradesh—section 33; Maharashtra—section 37; Punjab—section 34; Rajasthan—section 36.]

35. Ancient monuments, etc., no longer requiring protection.—If the Government are of opinion that it is no longer necessary to protect any ancient monument or archaeological site and remains under the provisions of this Act, they may, by notification, declare that the ancient monument or archaeological site and remains, as the case may be, has ceased to be a protected monument or a protected area for the purpose of this Act.

[Tamil Nadu—section 35; Andhra Pradesh—section 35; Gujarat—section 36; Madhya Pradesh—section 34; Maharashtra—section 38; Punjab—section 35.]

36. Power to correct mistakes, etc.—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 a protected monument or a protected area under this Act may, at any time, be corrected by the Government by notification.

[Tamil Nadu—section 36; Andhra Pradesh—section 36; Assam—section 23; Gujarat—section 37; Madhya Pradesh—section 35; Maharashtra—section 39; Punjab—section 36]

37. Protection of action taken under the Act.—No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act which is in good faith done or intended to be done in the exercise of any power conferred by this Act.

[Tamil Nadu—section 37; Andhra Pradesh—section 37; Assam—section 24; Gujarat—section 38; Jammu and Kashmir—section 24; Karnataka—section 30; Madhya Pradesh—section 36; Maharashtra—section 40; Orissa—section 26; Punjab—section 37; Rajasthan—section 37; West Bengal—section 25.]

38. Power to make rules.—(1) The Government may make rules to carry 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 protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings;
- (b) the grant of licences and permissions to make excavations for archaeological purposes in protected areas, the authorities by whom, and the restrictions and conditions subject to which, such licences and permissions may be granted, the taking of securities from licensees or holders of such permissions and the fees that may be charged for such licences and permissions;
- (c) the right of access of the public to a 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 22;
- (e) the form in which an application for permission under section 18 or section 24 may be made and the particulars which such application shall contain; .

- (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 for a term 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.

[Tamil Nadu—section 38; Andhra Pradesh—section 38; Assam—section 25; Gujarat—section 39; Jammu and Kashmir—section 23; Karnataka—section 31; Madhya Pradesh—section 37; Maharashtra—section 41; Orissa—section 25; Punjab—section 38; Rajasthan—section 38; West Bengal—section 24.]

39. Publication of rules, commencement of rules and notifications and placing of rules and notifications before the Legislature.—(1) All rules made under this Act shall be published in the Fort St. George Gazette, and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(2) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made and notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification, or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

40. Repeals and savings.—(1) Any law corresponding to this Act in force in the added territories immediately before the commencement of this Act, including the Andhra Pradesh Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1960 (Andhra Pradesh Act VII of 1960) (hereafter in this section referred to as the corresponding law), shall stand repealed on such commencement,

(2) The Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), shall cease to have effect in relation to ancient monuments and archaeological sites and remains declared under this Act to be protected monuments or

protected areas, except as respects things done or omitted to be done before the commencement of this Act.

(3) The repeal by sub-section (1) of the corresponding law shall not affect—

- (i) the previous operation of the corresponding law or anything duly done or suffered thereunder; or
- (ii) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or
- (iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or
- (iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(4) Notwithstanding the repeal by sub-section (1) of the corresponding law, all ancient monuments or archaeological sites and remains declared to be protected monuments or protected areas under the corresponding law shall be deemed to be ancient monuments or archaeological sites and remains declared to be protected monuments or protected areas under this Act.

(5) Subject to the provisions of sub-sections (3) and (4), anything done or any action taken before the commencement of this Act under the corresponding law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

(6) For the purpose of facilitating the application of this Act in the added territories, any Court or other authority may construe this Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court or other authority.

(7) Any reference to the corresponding law in any law which continues to be in force in the added territories after the commencement of this Act shall, in relation to those territories, be construed as a reference to this Act.

Explanation.—For the purpose of this section, the expression “added territories” shall mean the territories specified in the Second Schedule to the Andhra Pradesh and Madras. (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959).

[Tamil Nadu—section 40; Andhra Pradesh—section 39; Gujarat—section 41; Madhya Pradesh—section 38.]

STATE AMENDMENTS

Gujarat

40. *Application of certain other laws not barred.*—Save as expressly provided, the provisions of this Act, shall be in addition to and not in derogation of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, in so far as it relates to Entry 40 in List III in the Seventh Schedule to the Constitution of India, or any other law relating to that entry for the time being in force.

1.1356

*The Tamil Nadu Ancient and Historical Monuments and
Archaeological Sites and Remains Act, 1966*

[Sec. 40

Maharashtra.—Section 42.—Same as section 40 of Gujarat.

Karnataka

33.—*Act in addition to and not in derogation of Central Act 24 of 1958.*—The provisions of this Act shall be in addition and not in derogation, of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

Gujarat

42. *Act not applicable to ancient monuments etc., of national importance.*—(1) Nothing in this Act shall apply to ancient and historical monuments, or archaeological sites or remains, declared by or under any law made by Parliament to be of national importance, or to any antiquities to which the Ancient Monuments and Archaeological Sites and Remains Act, 1958, applies.

(2) Where any ancient and historical monument or any archaeological site and remains which is a protected monument, or protected area, by or under the provisions of this Act is declared at any time by or under any law made by Parliament to be of national importance, the provisions of this Act shall cease to apply to such monument or area; and accordingly, it shall cease to be a protected monument or area for the purposes of this Act.

Maharashtra.—Section 44.—Same as section 42 of Gujarat.
