



The Sindh Government Gazette

Published by Authority

KARACHI, SATURDAY, APRIL 30, 1994.

PART IV

PROVINCIAL ASSEMBLY OF SINDH

NOTIFICATION

Karachi, the 30th April, 1994

No. PAS/Legis-B-1/94.—The Sindh Cultural Heritage (Preservation), Bill, 1994 having been passed by the Provincial Assembly of Sindh on 10th February, 1994 and assented to by the Governor of Sindh on 2nd April, 1994 is hereby published as an Act of the Legislature of Sindh.

THE SINDH CULTURAL HERITAGE

(PRESERVATION) ACT, 1994

SINDH ACT No. XII OF 1994

(First published after having received the assent of the Governor of Sindh in the Gazette of Sindh (Extra -Ordinary) dated 30th April, 1994).

AN

ACT

to preserve and protect ancient places and objects of architectural, historical, archaeological, artistic, ethnological anthropological and national interest in the Province of Sindh.

Preamble.

WHEREAS it is expedient to preserve and protect ancient places and objects of architectural, historical, archaeological artistic ethnological anthropological and national interest in the Province of Sindh.

It is hereby enacted as follows:—

short title
and commen-
cement.

1. (1) This Act may be called the Sindh Cultural Heritage (Preservation) Act, 1994.

(2) It shall extend to the whole Province of Sindh including its coastal areas.

(3) It shall come into force at once.

Definitions

2. In this Act, unless the subject or context otherwise requires:—

(i) "Committee" means an Advisory Committee constituted under section 3;

(ii) "Chairman" means Chairman of the Committee;

(iii) "Government" means the Government of Sindh;

(iv) "maintain and maintenance" include the fencing, covering, repairing restoring, guarding and keeping clean the protected cultural heritage and the precincts thereof;

(v) "member" means a member of the Committee;

(vi) "protected heritage" means any premises or objects of archaeological, architectural, historical, cultural or national value declared as such by Government by notification that would include the land externally appurtenant such thereto and the outer walls thereof; and

(vii) "owner" includes any person legally competent to act on behalf of the owner and any manager or trustee exercising the powers of management.

Advisory
Committee.

3. (1) For the purpose of this Act, Government shall constitute an Advisory Committee consisting of a Chairman and six other members may be appointed by Government out of whom three shall be architectural historians, archaeologists, heritage conservators and scholars of traditional arts and crafts.

(2) The Chairman or a member, other than an ex-officio member, shall, unless he resigns by addressing a letter to Government or is removed earlier, hold office on the pleasure of the Government.

(3) The Chairman may co-opt any person as a member.

(4) An official member appointed by virtue of his office shall cease to be member on vacating such office.

4. If any question arises whether any premises or objects is of architectural, historical, archaeological or national value, it shall be referred to the Government which shall after consultation with the Advisory Committee decide the same and the decision of Government shall be final.

Question as to whether any protected heritage is of historical interest.

5. Where the Committee receives any information or otherwise has the knowledge of the discovery or existence of any premises or objects of architectural, historical, cultural or national value of which there is no owner, it shall, after satisfying itself as to the correctness of the information or knowledge, take such steps as may be considered necessary for the custody, preservation and protection of such premises or object.

Custody, preservation etc., of premises.

6. (1) Government may, by notification in the Official Gazette, on the recommendation of Committee or otherwise declare any premises of historical cultural or architectural value to be protected heritage within the meaning of this Act.

Declaration of protected heritage.

(2) A copy of every notification published under sub-section (1) shall be published in newspapers and fixed up in a conspicuous place on or near such premises/object together with an intimation that any objections to the issue of the notification received by Government within one month from the date of the Notification shall be taken into consideration.

(3) On the expiry of the said period of one month, Government after considering the objections, if any, may confirm or withdraw the notification.

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

7. (1) The Committee with the sanction of the Government, may purchase or assume custodianship of any protected heritage.

Acquisition of right in or guardianship of a protected heritage of the government.

(2) The Committee, may accept the gift or bequest of any protected heritage.

(3) The owner of any protected heritage may, by written instrument, appoint the Committee as the guardian of the protected heritage, and the Committee may, with the sanction of Government, accept such guardianship.

(4) When the Committee has accepted the guardianship of a protected heritage under sub-section (3), the owner shall except as expressly provided in this Act, have the same status, right, title and interest in the protected heritage or object as if the Committee had not been appointed guardian thereof.

(5) When the Committee has accepted the guardianship of a protected heritage under sub-section (3), the provisions of this Act relating to agreements executed under section 8 shall apply to the written instrument executed under the said sub-section.

Preservation
of protected
heritage

8. (1) The Committee may, with the previous sanction of Government propose to the owner to enter into an agreement with Government for the Preservation of any protected heritage.

(2) An agreement under this section may provide for the following matters or for such of them as it may be found expedient to include in the agreement—

- (a) the maintenance and custody of the protected heritage and the duties of any person who may be employed to watch it;
- (b) the restriction of the owner's right to destroy remove, alter or deface the protected heritage;
- (c) the facilities of access to the public or to any portion of the public and to persons deputed by the Committee to inspect or maintain the protected heritage;
- (d) the notice to be given to Government in case the land on which the protected heritage is situated is offered for sale by the owner, and the right to reserve by Government to purchase such heritage, or any specified portion of such heritage, at its market Value;
- (e) the payment of any expenses incurred by the owner or Government in connection with the preservation of the protected heritage; and;
- (f) any matter connected with the preservation of the protected heritage which is a subject of agreement between the owner and Government.

(3) The terms of any agreement under this section may be altered from time to time with sanction of Government.

(4) Either party may terminate an agreement under this section on giving three months notice in writing to the other party.

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

(6) Any right acquired by Government in respect of expenses incurred for protecting or preserving a protected heritage shall not be affected by the termination of an agreement under this section.

Owners
under dis-
ability.

9. If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 8.

10. (1) If it is apprehended that any person intends to destroy, remove alter deface or imperil the protected heritage or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 8, the Committee may make an order prohibiting any such contravention.

(2) If an owner or other who is bound by an agreement for the preservation or maintenance of a protected heritage under section 8 refuses to do any act which is in the opinion of the Committee is necessary to such preservation for maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Committee may authorise any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

(3) A person aggrieved by an order under this section may appeal to Government which may cancel or modify it, and its decision shall be final.

11. (1) If any owner or other person competent to enter into an agreement under section 8 for the preservation of a protected heritage, refuses or fails to enter into such an agreement when proposed to him by the Committee and if any endowment has been created for the purpose of keeping such heritage in repair, or for that purpose among others, the Committee may, Institute a suit in the Court of the District Judge for the proper application of such endowment or part thereof.

Application of endowment to repair of a protected heritage.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any party thereof, and any such order may be executed as if it was the decree of a Civil Court.

12. (1) If Government apprehends that a protected heritage is in danger of being destroyed, injured or allowed to fall into decay, Government may acquire it under the provisions of the Land Acquisition Act, 1894, as if the preservation of a protected heritage were a "public purpose" within the meaning of that Act.

Compulsory Purchase of Protected heritage.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

- (a) any protected heritage which or any part of which is periodically used for religious observance or
- (b) any protected heritage which is the subject of a subsisting agreement executed under section 8.

Maintenance
of protected
heritage.

13. The Committee shall maintain and preserve every protected heritage in respect of which Government has acquired any of the rights mentioned in section 7 or which the Government has acquired under section 12.

14. The Committee may receive voluntary contributions and donations towards the cost of maintenance a protected heritage and may give orders as to the management and application of any funds so received by it;

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

15. A protected heritage declare under this Act shall not be used for any purpose inconsistent with its character.

Relinquish-
ment of
Government
rights in a
protected
heritage.

16. With the sanction of Government, the Committee may -

(a) where ights have been acquired by Government in respect of any protected heritage under this Act by virtue of any sale, lease, gift or will, it may relinquish the rights so acquired in favour of the person who for the time being is the owner of such heritage; or

(b) relinquish any guardianship of a protected heritage which it has accepted under this Act.

Right of
access to
certain
Protected
heritage.

17. (1) Subject to such rules as may be made by Government, the public shall have a right of access to any protected heritage maintained by Government under this Act.

(2) In making any rule under sub-section (1) Government may provide that a breach of it shall be punishable with fine which may extend to twenty five thousand rupees.

Penalty.

18. Where any person including the owner destroys, removes, injures, alters, defaces a protected heritage maintained by Government under this Act or in respect of which an agreement has been executed under section 8, shall be punishable with fine which may extend to one lakh rupees, or with imprisonment which may extend to three years, or with both.

Overriding
effect.

19. The provision of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Rules.

20. Government may make rules to carry out the purpose of this Act.

21. No suit or prosecution or other legal proceedings shall lie against Government, the Committee, Chairman, member or any Officer of the Committee in respect of anything done or intended to be done in good faith under this Act or rules made thereunder.

Protection
to the Person;
acting under
this Act.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

ZAKIR HUSSAIN K. MIRZA
Secretary,
Provincial Assembly of Sindh

KARACHI: PRINTED AT THE SINDH GOVERNMENT PRESS

(1,250) 30-4-94 (1)