
CHAPTER 51**ANTIQUITIES, MONUMENTS AND MUSEUM**

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CHAPTER 51

ANTIQUITIES, MONUMENTS AND MUSEUM

An Act to provide for the preservation, conservation, restoration, documentation, study and presentation of sites and objects of historical, anthropological, archaeological and palaeontological interest, to establish a National Museum, and for matters ancillary thereto or connected therewith.

*5 of 1998
63 of 2011*

*[Assent 12th May, 1998]
[Commencement 1st July, 1999]*

PART I PRELIMINARY

1. This Act may be cited as the Antiquities, Monuments and Museum Act, 1998. Short title.

2. In this Act — Interpretation.

“antiquity” means —

- (a) an artifact; or
- (b) a place, building, site or structure including underwater cultural heritage, erected, formed or built by human agency which is at least fifty years old and the ruins or remains of any such place, building, site or structure including underwater cultural heritage, whether or not the same has been modified, added to or restored at any time; *63 of 2011, s. 2.*

“artifact” means —

- (a) a movable object made, shaped, painted, carved, inscribed, or otherwise created, manufactured, produced, used or modified by human agency which is at least fifty years old, whether or not it has been modified, added to or restored at any time; or
- (b) fossil remains or impressions;

“Board” means the Antiquities, Monuments and Museum Board established by section 22;

“Crown land” means land vested in Her Majesty or the Governor-General on behalf of Her Majesty as property of the Crown for the beneficial interests of The Bahamas;

“designated person” means —

- (a) an Administrator;
- (b) designated officers of the National Museum;
- (c) an officer of the Defence Force;
- (d) the officer in charge of a police station;
- (e) a police officer of or above the rank of inspectors; and
- (f) any person specified by the Minister by notice published in the *Gazette*;

“Director” means the Director of the National Museum appointed under section 20;

“discovery” means the findings in The Bahamas —

- (a) in, on or under land or strandline;
- (b) in or on anything growing on land; or
- (c) attached to or within the fabric or foundations of a structure in, on or under land or sea,

of any antiquity or supposed antiquity, the presence of which was previously unknown to the owner of such land or structure,

“Government land” means land, other than private land or Crown land, owned by the Government;

“licence” means a licence granted under section 13;

“Minister” means the Minister responsible for Antiquities, Monuments and Museums;

63 of 2011, s. 2.

“monument” means a place, building, site or structure including underwater cultural heritage, which is declared to be a monument under section 3;

“movable object” means an object which does not form part of land or seabed;

“National Museum” means the National Museum of The Bahamas established by section 17;

“permit” means a permit granted under section 6;

“private land” means land other than Government land or Crown land;

“public officer” shall have the meaning assigned thereto in the Pensions Act;

Ch. 43.

“Secretary” means the Secretary to the National Museum appointed by virtue of section 21;

“supposed antiquity” means an object or site which may reasonably be supposed to be or to contain an antiquity.

“underwater cultural heritage” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least fifty years and includes —

63 of 2011, s. 2.

- (i) sites, structures, buildings, artifacts and human remains together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character.

PART II MONUMENTS

3. (1) Subject to section 4, the Minister may, after consultation with the Board, by notice published in the *Gazette*, declare any place, building, site or structure including underwater cultural heritage, which the Minister considers to be of public interest by reason of its historical, anthropological, archaeological or palaeontological significance to be a monument.

Declaration of monuments and plans thereof.
63 of 2011, s. 2.

(2) A declaration under subsection (1) may include as part of a monument any land, sea or water adjoining the place, building, site or structure required for fencing, covering or protecting the monument or for providing or facilitating access thereto.

63 of 2011, s. 2.

(3) A notice under subsection (1) shall include a reference to the appropriate plan deposited under subsection (4).

(4) The Minister shall, before publication of a declaration under subsection (1) —

- (a) sign and deposit in The Registrar General's Department a plan clearly showing the location of the proposed monument; and
- (b) if the declaration relates to a monument within private land, register the declaration in the Registrar General's Department.

(5) The Minister shall —

- (a) keep available at his office, for public inspection at all reasonable times, a copy of every plan deposited under subsection (4); and
- (b) at the request of the owner or a lawful occupier of a monument which is shown on a plan so deposited, deliver a copy of the plan free of charge to the owner or occupier.

Declarations
affecting private
land.

4. (1) If a proposed monument is within private land, then, prior to the making of the declaration, the provisions of this section shall have effect.

(2) The Minister shall serve on the owner and any lawful occupier of the private land a notice in writing of his proposal to declare a monument therein together with a plan clearly showing the location of the proposed monument.

(3) Within one month, or such longer period as may be allowed by the Supreme Court in any particular case, after the service of a notice under subsection (2), the owner or a lawful occupier may object to the proposed monument by application to the Supreme Court.

(4) The Supreme Court, upon considering an application made under subsection (3), may direct that the proposed declaration shall or shall not be made or shall be made subject to such variations or conditions as it thinks fit.

(5) A direction of the Supreme Court under subsection (4) shall be final.

(6) A notice required to be served under this section may be served —

- (a) by delivering it personally to the person to be served;

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- (b) by leaving it at the usual or last known place of residence or business of the person to be served;
 - (c) by sending it by post addressed to the person to be served at the usual or last known place of residence or business of the person; or
 - (d) by serving it in such other manner as the court may, on application made to it in that behalf, direct.

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5. (1) Subject to this section, the Minister, or any designated person authorized by him in writing, may, for the purposes of this Act, at all reasonable times —

Control of monuments generally.

- (a) enter and inspect any monument;
- (b) fence, repair, maintain, preserve or restore any monument; or
- (c) excavate or search for artifacts in any monument and remove any artifacts hitherto undiscovered.

(2) Neither the Minister nor a designated person authorized by him may enter any premises, in the exercise of the powers conferred by subsection (1), unless he first notifies the owner or the lawful occupier of such premises of his intention to do so:

Provided that the Minister shall dispense with such notification where he considers it necessary to do so.

(3) Nothing in this section shall authorize the exclusion from any part of a monument of —

- (a) the owner or lawful occupier of the monument;
- (b) a person beneficially interested in the monument; or
- (c) a person authorized by such owner, occupier or person beneficially interested in the monument.

6. No person shall —

- (a) excavate, carry on building or other work, plant or fell trees or deposit earth or refuse on, in or near a monument; or
- (b) demolish, remove, obstruct, deface or interfere with a monument,

Acts prohibited in relation to certain monuments under permit.

except in accordance with a permit granted by the Minister.

7. The Minister may grant to a person who proposes to carry out work for the maintenance, preservation, restoration, documentation, study or presentation of a monument such sum as the Minister thinks fit for the purpose of assisting the person to carry out the work.

Grant of sums for preservation, etc. of monuments.

8. (1) Subject to this section, the Minister shall pay to the owner or lawful occupier of a monument compensation in respect of financial loss suffered or likely to be suffered by him by reason of —

Compensation.

- (a) the exercise by the Minister, or by a designated person authorized by him, of the powers specified in subsection (1) of section 5; or
 - (b) a refusal to grant a permit or any conditions imposed in a permit.
- (2) The compensation shall be such amount as may —
- (a) be agreed between the Minister and the owner or lawful occupier of the monument; or
 - (b) be assessed by the Supreme Court under section 9.

(3) No compensation shall be awarded under this section in respect of financial loss which may be suffer in connection with a contract made or anything done by the owner or lawful occupier of the monument after the service of a notice under subsection (2) of section 4.

Assessment of compensation by Supreme Court.

9. (1) In default of agreement under paragraph (a) of subsection (2) of section 8, the owner or lawful occupier may apply to the Supreme Court —

- (a) for determination of his interest or right;
- (b) for the determination of the legality of the declaration affecting his interest or right;
- (c) to assess the amount of compensation payable under section 8; and
- (d) for obtaining prompt payment of such compensation.

(2) The Supreme Court may, on such application, award to the applicant such compensation as it thinks reasonable in the circumstances.

PART III ARTIFACTS

Certain artifacts to be property of Government.

10. (1) Subject to this Act, the ownership of every artifact discovered in The Bahamas after the commencement of this Act shall vest in the Government from the moment of discovery.

(2) The Minister may, on behalf of the Government, disclaim the ownership of an artifact so discovered, and upon such disclaimer —

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- (a) the ownership of the Government in the artifact shall be extinguished; and
 - (b) the ownership of the artifact shall vest in the person who, but for the enactment of this Act, would otherwise have been the owner thereof.
- (3) The provisions of sections 8 and 9 shall apply *mutatis mutandis* to this Part.

PART IV

DISCOVERY AND EXCAVATION OF ANTIQUITIES

11. (1) Any person who discovers, or knows of the discovery of an antiquity or supposed antiquity shall forthwith report the discovery to the Minister, or to a designated person.

Discovery of Antiquities.

(2) A person who makes a report under subsection (1) shall, if so requested by the Minister or a designated person, identify to the Minister or to the designated person the antiquity or the supposed antiquity and its exact location in respect of which the report was made.

(3) A person who discovers an antiquity or supposed antiquity shall take all reasonable measures to protect it.

(4) The Minister may award to a person who makes a report under subsection (1) such sum by way of reward as the Minister thinks fit.

(5) A designated person to whom a report is made under this section shall forthwith inform the Minister, in writing, of the report.

(6) Subject to subsection (7), the Minister and any designated person authorised by him in writing, may enter upon and inspect the site of the discovery of an antiquity or supposed antiquity.

(7) Neither the Minister nor a designated person authorised by him may enter any premises in the exercise of the powers conferred by subsection (6), unless he first notifies the owner or the lawful occupier of such premises of his intention to do so:

Provided that the Minister shall dispense with such notification where he considers it necessary to do so.

Reporting of
underwater
cultural heritage
in the EEZ and
the continental
shelf.
63 of 2011, s. 4.

11A. (1) When a person, or a vessel flying the flag of The Bahamas, discovers or intends to engage in excavations and searches for or other activities directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf of The Bahamas, that person or the master of the vessel shall report such discovery or activity to the Minister, or to a designated person.

(2) A designated person to whom a report is made under this section shall forthwith inform the Minister and the Board, in writing, of the report.

No excavation
etc. of antiquities,
without
licence.

12. No person, other than the Minister and a designated person authorised by him, shall —

- (a) excavate or search for antiquities except in accordance with a licence granted to him;
- (b) survey for or recover underwater cultural heritage except in accordance with a licence granted to him;
- (c) remove any artifact hitherto undiscovered from a monument or collect or remove any object which he supposes to be an artifact from the site of its discovery, otherwise than for the purpose of protecting the same or in accordance with a licence granted to him.

63 of 2011, s. 5.

Grant of licences.
63 of 2011, s. 6.

13. (1) Subject to this Act, the Minister may grant to any person a licence to excavate and search for antiquities on land or survey for, or recover, underwater cultural heritage.

(2) A licence may not be granted to a person unless the Minister is satisfied that he —

- (a) has had sufficient scientific training or experience to enable him to carry out the excavation and search;
- (b) has at his disposal sufficient staff and financial or other resources to enable him to carry out the proposed excavation and search satisfactorily;
- (c) is able to conduct or arrange for a proper scientific study of any antiquities discovered as a result of the proposed excavation and search for their proper preservation, restoration, analysis, documentation and presentation; and
- (d) has deposited the prescribed performance bond.

(3) Subject to subsection (2), a licence may be granted or renewed for a period not exceeding twelve months.

(4) A licence shall be in the prescribed form and shall specify the area of land or the specific coordinates of the area of water in respect of which it is granted.

(5) A licence shall not be transferable in whole or in part.

(6) The Minister may include such conditions in a licence as he considers appropriate and in particular but without prejudice to the generality hereof, may include conditions as to the conduct of any excavation and search, the reporting, mapping and documenting thereof, the preservation, conservation and restoration of materials discovered, their removal, examination, presentation and return, and the making and delivery of casts, rubbings, squeezes and other reproductions.

(7) A licence to survey for or recover underwater cultural heritage incorporates and is subject to the prescribed regulations. *63 of 2011, s. 6.*

(8) The Minister may grant a licence or authorisation for activity directed at underwater cultural heritage in the exclusive economic zone and the continental shelf. *63 of 2011, s. 6.*

(9) The Minister may transfer artifacts to a licensee under a licence to survey for or recover underwater cultural heritage if the Minister is satisfied that — *63 of 2011, s. 6.*

- (a) each recovered artifact has been represented in a complete inventory created during the course of licensed recovery activities;
- (b) each recovered artifact has been assigned a value in arbitrary points by the licensee and the appointed government representative;
- (c) the assignment of points for all artifacts to be divided has been agreed upon in writing by the licensee and the appointed government representative prior to any proposed division of artifacts;
- (d) the government has retained ownership of any artifacts it deems of such high historical, cultural, archaeological or scientific value that their transfer would represent an irreparable loss to the national patrimony; and

- (e) the proposed transfer conforms with the understanding and goal of a division of artifacts as follows —
- (i) the licensee to receive 75% of total value measured by points;
 - (ii) the government to receive 25% of total value measured by points; and
 - (iii) both government and licensee to agree in writing that government's retention of artifacts important to the protection of the national patrimony may exceed government's 25% share in certain years with the imbalance to be corrected by future divisions.

Rights of licensee.

14. (1) The holder of a licence may, subject to the conditions thereof, enter upon the excavation and search for antiquities, in, on or under —

- (a) any Government land or Crown land within the area specified in the licence; and
- (b) subject to subsection (2), any private land within the area specified in the licence.

(2) The holder of a licence shall not be entitled to enter upon, or excavate or search for antiquities in, on or under private land unless he first obtains the consent in writing of the owner and any lawful occupier of the land.

Cancellation of licence.

15. (1) Subject to subsection (2), the Minister may cancel any licence.

(2) A licence shall not be cancelled unless the holder of the licence has been given reasonable opportunity to make representations to the Minister as to why his licence should not be cancelled.

(3) As soon as possible after the cancellation of a licence, the Minister shall, by notice in writing, served either personally or by registered post, inform the person whose licence has been cancelled of the cancellation and of the reasons thereof.

(4) Failure to comply with subsection (3) shall not invalidate the cancellation of a licence.

Minister's decision to be final.

16. (1) The decision of the Minister to grant, renew or cancel a licence shall be final unless it can be shown to the satisfaction of the Supreme Court by the party aggrieved that the Minister was acting *ultra vires*.

(2) The decision of the Supreme Court on the appeal shall be final.

PART V
ESTABLISHMENT, FUNCTIONS AND
MANAGEMENT OF NATIONAL MUSEUM

17. (1) There shall be established a museum to be known as “The National Museum of The Bahamas”.

Establishment of
National
Museum.

(2) The National Museum shall be a body corporate with perpetual succession and a common seal, and shall be capable of —

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of property, movable and immovable; and
- (c) doing or performing all such other things or acts for the performance of its functions under, and for the furtherance of the provisions of, this Act which may lawfully be done or performed by a body corporate.

18. (1) The common seal of the National Museum shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.

Common Seal of
the National
Museum.

(2) The common seal of the National Museum shall be authenticated by the signatures of the Chairman of the Board or any other member of the Board duly authorised by the Board in that behalf, and by the Secretary.

(3) The common seal of the National Museum when affixed to any document and duly authenticated under this section shall be judicially and officially noticed, and, unless and until the contrary is proved, any necessary order or authorisation of the Board under this section shall be presumed to have been duly given.

19. The functions of the National Museum shall be —

- (a) to establish, operate and administer museums throughout The Bahamas;

Functions of the
National
Museum.

- (b) to provide for the presentation and study of sites and objects of historical, anthropological, archaeological, palaeontological, and other scientific interest and matters ancillary thereto;

- (c) to assist other bodies or persons either financially or in any other way to carry on any undertaking which appears to the National Museum to be needed for the achievement of its purposes;
- (d) to carry on any activities incidental to any undertaking which appears to the National Museum to be necessary for the promotion of that undertaking;
- (e) to be the major national and public repository of all artifacts of integral importance to the pre-history, history and cultural development of the Bahamian people and The Bahamas;
- (f) to hold and display significant archaeological, anthropological, historical, cultural, palaeontological and other scientific collections;
- (g) to establish, operate and administer a conservation unit of the National Museum as prescribed, to be headed by a conservator appointed by the Board, for the purpose of superintending the conservation, preservation and restoration of all antiquities and monuments, and the supervision of persons and institutions licensed by this Act to perform similar functions;
- (h) to establish, operate and administer an archaeological and palaeontological research unit of the National Museum as prescribed, to be headed by an archaeologist appointed by the Board, for the purpose of conducting terrestrial and underwater archaeological research into the prehistory and history of the Bahamian people and The Bahamas and the supervision of persons and institutions licensed by this Act to perform such research; and
- (i) to establish, operate and administer an historical site unit of the National Museum as prescribed to be headed by a surveyor or architect or other appropriate person appointed by the Board, for the purpose of identifying, studying, demarcating and maintaining national, historical and cultural sites.

Director of the
National
Museum.

20. (1) There shall be a Director of the National Museum who shall be appointed by the Minister on such terms and conditions (including salaries, allowances and other remuneration) as the Minister may determine.

(2) The Director shall, subject to the directions of the Board, be responsible generally for the management of the National Museum.

(3) Without prejudice to the generality of subsection (2), the Director shall supervise and direct the work of the National Museum, the administrative and other staff of the National Museum and also perform such other functions as may from time to time be assigned to him by the Board.

(4) The Director may be removed from office by the Minister on the grounds of misconduct, inefficiency or other good cause.

(5) Whenever the Director is absent from The Bahamas or is for any reason unable to perform the functions of his office, the Minister may appoint a person to act as Director during such absence or inability.

21. (1) There shall be a Secretary of the National Museum who shall be appointed by the Board on such terms and conditions (including salaries, allowances and other remuneration and disciplinary, control) as the Board may determine.

Secretary of the
National
Museum.

(2) The Secretary, under the direction of the Director, shall be responsible for the administration of the National Museum, including the administration of funds and other assets of the National Museum.

22. (1) There shall be established a board to be known as the “Antiquities, Monuments and Museum Board”.

Establishment of
the Board.

(2) The management, control and administration of the National Museum shall be vested in the Board —

(3) Without prejudice to the generality of subsection (2), the Board shall have power —

(a) to control and superintend the property and policy of the National Museum;

- (b) to appoint such professional, technical, administrative and other staff as appear to the Board to be necessary, on such terms and conditions (including salaries, allowances and other remuneration and disciplinary control) as the Board may determine;
- (c) to receive on behalf of the National Museum gifts, grants or other moneys;

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- (d) subject to the prior approval of the Minister, to make regulations —
- (i) to direct and regulate the administration of the National Museum,
 - (ii) without prejudice to the generality of subparagraph (i), to direct and regulate the conduct, discipline and such other matters affecting the employment of members of the staff as the Board sees fit.

(4) The provisions of the Schedule shall have effect with respect to the Constitution of the Board and otherwise in relation thereto. Schedule

23. (1) Where any public officer holding a pensionable office under the Government ceases to be the holder of such office by reason of his transfer with his consent to the service of the National Museum and such person subsequently retires from the service of the National Museum in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of the Pensions Act, then in any such case the provisions of subsections (2) and (3) shall have effect. Pensions of persons transferred from the public service to the National Museum.
Ch. 43.

(2) Any pension payable to any such person as is mentioned in subsection (1) by the National Museum to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the National Museum taken together and such service shall be reckoned as continuous for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the National Museum as contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act, if such person had retired from the public service and if he had been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer. Ch. 43.

Board to be subject to directions of Minister.

24. (1) The Minister may give the Board such general directions as he thinks fit with respect to the exercise of its functions under this Act.

(2) In the exercise of its functions under this Act, the Board shall comply with any directions given by the Minister under subsection (1).

PART VI FINANCIAL PROVISIONS

Funds and resources of the National Museum.

25. The funds and resources of the National Museum shall consist of —

- (a) such sums as may be voted for the purposes of the National Museum by Parliament;
- (b) all other sums or property which may in any manner become payable to or vested in the National Museum in respect of any matter incidental to its functions.

Moneys deposited to General Account.

26. (1) All moneys received by the National Museum pursuant to section 25 shall be deposited into as account (to be known as “the General Account”) to be maintained by the National Museum with such bank or banks as the Board may determine.

(2) The National Museum shall keep in respect of the General Account, two separate accounts —

- (a) an account to be known as “the General Current Account” in which shall be recorded all deposits into and withdrawals from the General Account for applications towards defraying current expenditure; and
- (b) an account to be known as “the General Capital Account” in which shall be recorded all deposits into and withdrawals from the General Account for applications towards defraying capital expenditure.

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- 27.** (1) Subject to subsection (2), where any gifts, grants or other moneys are received by the Board on behalf of the National Museum, the National Museum shall inform the Minister of the receipt of such gifts, grants or other moneys, and such gifts, grants or other moneys shall be expended in such manner as the Board may determine. Expenditure of gifts and grants.
- (2) Where a donor or grantor, as the case may be, has attached any reasonable stipulation to any such gift or grant or other moneys, such stipulation shall be given effect thereto.
- 28.** (1) Subject to subsection (2), the Minister of Finance may, at the request of the Board, make advances for the purpose of enabling the National Museum to defray expenditure properly chargeable to the capital account, including provision of working capital. Advances to the National Museum.
- (2) No advance shall be made under this section unless prior approval thereof has been signified by the House of Assembly in accordance with the Financial Administration and Audit Act. Ch. 359.
- 29.** At the end of each financial year, any surplus moneys standing to the credit of the National Museum and not required for any current purposes shall be carried to the reserve fund established under section 30. Surplus moneys.
- 30.** (1) The National Museum shall establish a reserve fund. Reserve Fund.
- (2) The management of the reserve fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Board may determine, but, the reserve fund shall not be applied otherwise than for the purposes of the National Museum.
- 31.** (1) It shall be the duty of the National Museum to discharge its functions as to ensure that its revenue are not less than sufficient to meet all sums properly chargeable; to its revenue account (including, without prejudice to the generality of that expression, provisions in respect of its obligations under section 29 and this section) taking one year with another. Balancing of revenue account and surplus revenue.

(2) Any excess of the revenue of the National Museum for any financial year over the sums properly chargeable to its revenue account for that year (including the provisions referred to in subsection (1)) shall be applied by the National Museum for such purposes as the Board may determine.

(3) The National Museum shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least two months prior to the commencement of the financial year.

Accounts and
audit.

32. (1) The National Museum shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the National Museum for each financial year shall be audited by an auditor to be appointed by the Board.

(3) As soon as the accounts have been audited the National Museum shall submit a copy thereof to the Minister together with a copy of any report made by the auditor.

(4) The Minister shall lay a copy of every such audited accounts before each House of Parliament, together with a copy of any report made by the auditors on the accounts.

PART VII MISCELLANEOUS

Offences.

33. Any person who —

- (a) knowingly makes a false statement to the Minister or to a designated person as to the situation or circumstances of the discovery of an antiquity;
- (b) contravenes section 6, subsection (1) of section 11 or section 12;
- (c) without reasonable excuse, fails to comply with a request made to him by the Minister or a designated person under subsection (2) of section 11;

- (d) wilfully obstructs the Minister, or any designated person authorized by him, in the exercise of his powers under subsection (1) of section 5 or subsection (6) of section 11; or
- (e) fails to report a discovery within a reasonable time,

is guilty of an offence and shall be liable on summary conviction to a fine of ten thousand dollars or to imprisonment for one year.

34. (1) Subject to this section, in any civil or criminal proceedings if it is proved that an artifact or alleged artifact was in The Bahamas after the date of the commencement of this Act, it shall be presumed, until the contrary is proved, that the discovery of the artifact or alleged artifact occurred after that date.

Evidence.

(2) A presumption arising under subsection (1) shall be rebutted if the court is satisfied that the artifact or alleged artifact —

- (a) has been in the possession of a party to the proceedings, or of such a party and any identifiable person from whom he acquired possession, for a period of not less than ten year prior to the commencement of the proceedings; or
- (b) has at any time before the commencement of the proceedings been imported into The Bahamas.

(3) In any civil or criminal proceedings a certificate purporting to be signed by the Minister and stating that anything is an antiquity, shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein.

35. A sum —

- (a) granted under section 7;
- (b) awarded as compensation under section 8 or 9;
- (c) awarded under subsection (4) of section 11,

Payments to be made from funds provided by Parliament.

shall be paid from such moneys as may be provided from time to time by Parliament, and from funds of the National Museum.

Pensions and
gratuities.

36. As soon as practicable after the commencement of this Act, the National Museum shall, subject to the approval of the Minister, establish a scheme for the payment of pensions or gratuities for officers and servants of the National Museum who retire from the service of the National Museum or otherwise ceased to hold office by reason of age, or of infirmity of mind or of the abolition of office.

Regulations.

- 37.** (1) The Minister may make regulations —
- (a) prescribing the forms of licences and permits;
 - (b) prescribing the manner in which applications for licences and permits shall be made;
 - (c) prescribing the fees and performance bonds to be paid to the Minister upon the grant or renewal of licences;
 - (d) regulating the conduct of excavations and searches for antiquities;
 - (e) providing for the preservation, conservation, restoration, analysis, documentation and presentation of antiquities;
 - (f) providing for the management and control of antiquities and monuments;
 - (g) providing for the prohibition and control of access to excavations, monuments and sites, and for the payment, restriction and regulation of entrance fees thereto;
 - (h) providing for the establishment, operation and administration of the conservation unit, the archaeological and palaeontological research unit and the historical site unit of the National Museum;
 - (i) generally for the better carrying out of the provisions of this Act.
- (2) No regulations made under this Act shall —
- (a) prohibit or restrict access to a monument of the owner or lawful occupier of the monument or of any person beneficially interested therein, or of any person authorized by the owner, occupier or person beneficially interested; or

- (b) confer upon a person any right which he would not otherwise have had to enter upon private land.

38. There shall, by virtue of this section and without further assurance, vest in the National Museum in fee simple free from incumbrances all such land which immediately before the commencement of this Act vested in the Treasurer in trust for Her Majesty in right of Her Government of The Bahamas and shall be described by the Minister by notice published in the *Gazette*.

Vesting of property.

39. (1) Where there is a conflict between any provision of this Act and any provision of any other Act, the provision of this Act shall prevail.

Provisions of this Act to prevail.

(2) For the avoidance of doubt, it is hereby declared that in relation to monuments, historical and archaeological sites and antiquities, the provisions of this Act shall take precedence over the provisions of The Bahamas National Trust Act.

SCHEDULE (Section 22(4))

CONSTITUTION AND PROCEDURE OF THE BOARD

1. (1) The Board shall consist of twelve members of whom —
- (a) one shall be the Director of the National Museum *ex officio*;
 - (b) one shall be the Director of Archives;
 - (c) one shall be the President or his representative of the College of The Bahamas;
 - (d) one shall be the Director-General of Tourism;
 - (e) one shall be the Director of Culture;
 - (f) one shall be the Director of Physical Planning;
 - (g) one shall be a member of The Bahamas National Trust appointed by the Minister; and
 - (h) five shall be appointed by the Minister after consultation with the Director and such economic or social bodies or associations from which the Minister considers that such members should be selected.

(2) In exercise of his powers of appointment under this paragraph the Minister shall ensure that, after the initial constitution of the Board, the members of the Board shall not consist entirely of persons previously appointed to membership of the Board at the same time.

2. A member of the Board other than the persons referred to in paragraph 1(1)(a) to (f) shall hold office for a period not exceeding three years, and shall be eligible for re-appointment.

3. The Minister shall appoint one of the members of the Board to be the Chairman thereof.

4. (1) Any member of the Board, other than the Chairman, may at anytime resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

5. The Minister may at any time revoke the appointment of any member of the Board.

6. (1) If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

(2) If the Minister is satisfied that the Chairman or any other member of the Board is unable to act, the Minister shall appoint any person to act in his place.

7. The names of all members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*.

8. All documents, other than those required to be under seal, made by, and all decisions of, the Board may be signified under the hands of the Chairman, or any other member authorized to act in that behalf, and the Secretary.

9. (1) The Board shall meet at least once every three months and at such other times as may be necessary or expedient for transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The Chairman shall preside at all meetings of the Board at which he is present and, in the case of the Chairman's absence from any meeting, the members present and constituting a quorum shall elect a Chairman from among their number to preside at that meeting.

(3) A quorum of the Board shall consist of five members.

(4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(5) Minutes in proper form of each meeting of the Board shall be kept by the Secretary of the Board and a copy of the minutes of every meeting shall be submitted to the Minister as soon as possible thereafter.

10. There shall be paid from the funds of the National Museum to the Chairman and other members of the Board such remuneration, if any, whether by way of honorarium, salary or fees such allowances, if any, as the Minister may determine.