

# **Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961**

RAJASTHAN

India

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### **Act 19 of 1961**

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Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961(Act No. 19 of 1961)RJ98Statement of Objects and Reasons (Act No. 12 of 2007). - The Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961 defines ancient or historical monuments, antiquities so as to exclude ancient or historical monuments, and antiquities declared to be of National importance under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act No. 24 of 1958) but the terminology used in the definitions creating some ambiguities. Hence the definitions were sought to be amended so as to remove the ambiguities. The government faced hindrances in the court while acquiring the monuments to be declared protected because of the reasons mentioned in the notification. Therefore, it was necessary to remove the provision mentioning reasons in the notification. References to the Rajasthan Land Acquisition Act, 1953 in Sections 12, 21 & 32 were sought to be substituted by reference to the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) because the Act of 1953 has been repealed by Rajasthan Act No. 8 of 1987 w.e.f 24.9.1984. The provisions in the Act for penalty, fine and prison had become ineffective with the passage of time and it had become necessary to increase the punishment so that nobody could dare to endanger the monuments, archaeological sites and antiquities. A new Section 37-A, was sought to be inserted in the principal Act so as to enable the State Government to rectify any error in the description of ancient or historical monuments archaeological sites and antiquities declared protected under this Act. Since the Rajasthan Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, she, therefore, promulgated the Rajasthan Monuments, Archaeological Sites and Antiquities (Amendment) Ordinance, 2007 (Ordinance No. 4 of 2007) on 25th May, 2007, which was published in Rajasthan Gazette, Extraordinary, Part IV (B), dated 26th May, 2007. This Bill seeks to replace the aforesaid Ordinance. Statement of Objects and Reasons (Act No. 6 of 2006). - The rich heritage of the State has been the pride of the people of the State and now it has also become a source of heritage tourism. The State is gradually acquiring worldwide recognition for its historical

monuments and places and is attracting tourists not only from within the country but also from foreign countries. The historical importance as well as importance from the tourism point of view of these monuments makes it imperative for us to make provisions for proper maintenance and restoration of these monuments. The matter is engaging the attention of the State Government for quite some time past. After considering the whole matter, the State Government is of the view that proper maintenance and restoration of these monuments would need huge resources and great expertise in the field and a limited and regulated private participation in the field would be very useful. It is also considered appropriate to levy entrance fee in respect of certain protected monuments to be specified by the State Government so as to augment funds for their maintenance. Therefore, it is proposed to insert two new Sections 13-A and 20-A in the Rajasthan Monuments, Archaeological Sites and Antiquities Act, 1961. The opportunity is also sought to be availed to correct the reference of Section 4 in Section 13. This Bill seeks to achieve the aforesaid objectives. [Received the assent of the President on the 22nd day of June, 1961] An Act to provide for the preservation, protection, upkeep, maintenance, acquisition and regulation of, and control over, ancient and historical monuments, archaeological sites and antiquities in the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Twelfth Year of the Republic of India as follows :-

## **Chapter I**

### **Preliminary**

#### **1. Short title, extent and commencement**

(1) This Act may be called the Rajasthan Monuments, Archaeological Sites and Antiquities Act 1961. (2) It extends to the whole of the State of Rajasthan. (3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

#### **2. Definitions**

- In this Act, unless the subject or context otherwise requires, - (i) "ancient historical monuments" means any archaeological building structure erection or monument or any tumulus, tomb or place of interment or any cave, rock sculpture, rock-painting or sculpture of or on stone, metal, terra cotta or other immovable object or any inscription or monolith, which is of historical, archaeological or artistic importance, interest or value, and includes - (a) any remains thereof, (b) the site thereof, (c) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance of the same, and (d) the means of access thereto and of convenient inspection and repairs thereof, but does not include an ancient monument as defined in the Central Act, [which has been declared protected under that Act and stands so declared;] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A dated 9.10.2007) (w.e.f. 25.5.2007)] (ii) "antiquity" means - (a) any coin, sculpture, epigraph, manuscript, record, document, picture, painting, printed matter or other work or art of craftsmanship, (b) any article, object or thing of historical, archaeological or artistic importance, interest or value detached from a protected monument or collected from or discovered

in a protected area,(c)any article, object or thing illustrative of science, arts, crafts, literature, religion, customs, morals or politics in by gone ages, and(d)any other article, object or thing of historical, archaeological or artistic importance interest or value and includes any article , object or thing which the State Government may, by notification in the Official Gazette, declare, by reason of its historical or archaeological association, to be an antiquity for the purposes of this Act but does not include an antiquity as defined in the Central Act, [which has been declared protected under that Act and stands so declared;] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinry Part 4A dated 9.10.2007) (w.e.f. 25.5.2007)](iii)"archaeological officer" means an officer of the Department of Archaeology of the State Government not below such rank as the State Government may from time to time prescribe;(iv)"archaeological site" means any mound indicating ancient habitation or any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance, interest or value and include:-(a)any remains thereof,(b)the site thereof,(c)the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance thereof, and(d)the means of access thereto and of convenient inspection and repairs and excavation thereof,but does not include an archaeological site and remains as defined in the Central Act, [which has been declared protected under that Act and stands so declared;] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinry part.4A dated 9.10.2007)(w.e.f. 25.5.2007)](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.(vi)"Director" means the Director of Archaeology and Museums of the State and includes any officer appointed by the State Government to perform the duties of the Director under this Act;(vii)"maintain" with its grammatical variations and cognate expression, includes the fencing, covering in, repairing, restoring and cleaning of an ancient or historical monument, an archaeological site or an antiquity or the doing of any act which. may be necessary for the preservation, protection, upkeep or regulation of such monument, site or antiquity, or for securing convenient access thereto;(viii)"owner" used with reference to an ancient or historical monument, archaeological site or antiquity, includes-(a)a joint owner invested with powers of management of or over such monument, site or antiquity on behalf of himself and other joint owners and the successor-in-title of any such owner, and(b)any manager or trustee exercising powers of such management and the successor-in-office of any such manger or trustee,(ix)'prescribed" means prescribed by rules made under this Act;(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; and(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 the sub-clause (b) of clause (ii).

### **3. Power to declare monuments etc. to be protected**

(1)The State Government may declare for the purposes of this Act -(i)any ancient or historical monument to be a protected monument, or(ii)any archaeological site to be a protected area, or(iii)any antiquity to be a protected antiquity.(2)before making any such declaration as is referred to in sub-Section (1) , the State Government shall, by notification in the Official Gazette, give two

months notice of its intention to do so and a copy of such notification along with a statement of the reasons for which such declaration is proposed to be made, shall be affixed in a conspicuous place at or near the ancient or historical monument or the archaeological site which is proposed to be declared as protected or on or near the place where or in which such monument or the antiquity proposed to be declared as protected is for the time being.(3)Any person interested in any such monument, archaeological site or antiquity may, within two months after the publication of such notification in the Official Gazette, object to the proposed declaration.(4)On the expiration of the said period of two months, the State Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette-(i)any ancient or historical monument to be a protected monument, or(ii)any archaeological site to be a protected area, or(iii)any antiquity to be a protected antiquity.(4A)[ Notwithstanding anything contained in sub-sections (2) & (3) where the State Government is satisfied with respect to any monument, archaeological site or antiquity, that there is immediate danger of its removal, or destruction it may instead of proceeding under the said sub-section, by notification in the Official Gazette] [Inserted by the Rajasthan Monuments, Archaeological sites or Antiquities (Amendment) Act,1976 (Act No. 2 of 1976) (Published in Rajasthan Gazette Extraordinary, Part 4(Ka) dated 24.10.1976).] [.....] [Words 'and for reasons of its satisfaction to be recorded in such notification' Deleted by Notification No. F. 2(16)Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).] forthwith make a declaration under clauses (i), (ii) or (iii), as the case may be of sub-Section (4) in respect of any such monument, archaeological site or antiquity :Provided that any person interested in such monument, archaeological site or antiquity may, within two months after the publication of such notification object to the declaration so made and the State Government after giving to such person an opportunity of being heard, may by order in writing dismiss the objection or withdraw the notification.(5)A notification published under sub-Section (4) [or under sub-Section (4A) ] shall unless and until it is withdrawn, be conclusive evidence of the fact that the ancient or historical monument, archaeological site or antiquity to which it relates is a protected monument, a protected area or a protected antiquity for the purposes of this Act.

## Chapter II

### Protected Monuments

#### 4. Acquisition of rights in or guardianship of a protected monument

(1)The Director may, with the sanction of the State 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 in the Official Gazette, assume the guardianship of such monument.(3)The owner of any protected monument may, by written instrument, constitute the Director to be the guardian of such monument and the Director may, with the sanction of the State Government, accept such guardianship.(4)When the director has accepted the guardianship of a protected monument under sub-Section (3)-(a)the owner shall except as expressly provided in this Act, have the same estate right, title and interest in or to the monument as if the Director had not been constituted a guardian thereof, and(b)the provisions of this Act relating to agreements, executed under Section 5, shall apply to the written instrument executed under the said

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

## **5. Preservation of protected monument by agreement**

(1)The Collector, when so directed by the State Government, shall propose to the owner of a protected monument to enter into an agreement with the State Government within a specified period for the maintenance and upkeep of the monument.(2)An agreement under this section may provide for all or any of the following matters, namely :-(a)the maintenance and upkeep 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, or(ii)to charge any fee for entry into, or inspection of, the monument, or(iii)to destroy, injure, mutilate, deface, alter, repair, remove or disperse the monument or to allow it to fall into decay, 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 the persons deputed by the owner or any archaeological officer or the Collector to inspect or maintain the monument;(e)the notice to be given to the State Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the State Government, to purchase such land or any specified portion of such land, at its market value:(f)the payment of any expenses incurred by the owner or by the State Government in connection with the maintenance and upkeep of the monument.(g)the proprietary or other rights which are to vest in the State Government in respect of the monument when any expenses are incurred by the State Government in connection with the maintenance and upkeep of the monument:(h)the appointment of an authority to decide any dispute arising out of agreement: and(i)any matter connected with the maintenance and upkeep of the monument which is a proper subject of agreement between the owner and the State Government .(3)The terms of an agreement under this section may be altered from time to time by the State Government with the consent of the owner.(4)The State Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it or giving six month's 'notice in writing to the other partyProvided that where the agreement is terminated by the owner. he shall pay to the State Government the expenses. if any, incurred by it on the maintenance and upkeep of the monument during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter, period, during the period the agreement was in force.(5)An agreement under this section shall be binding on any person claiming to be the owner of the monument to which it relates, from through or under a party by whom or on whose behalf the agreement was executed.

## **6. Owners under disability**

(1)In case of the owner of a protected monument being unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf, and, in case of village property the lambardar or other village-officer exercising powers of management of or over such property, may exercise the powers conferred upon an owner by Section 5.(2)Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any

part of which is periodically used for the religious worship or observances of that religion.

## **7. Failure or refusal to enter into agreement**

(1) If any owner or other person competent to enter into an agreement under section 5 for the maintenance and upkeep of a protected monument refuses or fails to enter into such an agreement, the State Government may make an order providing for all or any of the matters specified in sub-section (2) of Section 5. (2) No order under sub-section (1) shall be made unless the owner or other person has been given an opportunity of making a representation in writing and being heard against the proposed order. (3) Every order made under sub-section (1) shall be binding on the owner or such other persons and on every person claiming title to the monument from, through or under the owner or such other person. (4) When an order made 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 and upkeep of the monument shall be payable by the State Government.

## **8. Application of endowment to repair protected monument**

(1) If any owner or other person competent to enter into an agreement under Section 5 for the maintenance and upkeep 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 State Government may institute a suit in the court of the district judge, or if the estimated cost of repairing the monument does exceed one thousand rupees, may make an application to the district judge, for the proper application of such endowment or part thereof. (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 on order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

## **9. Enforcement of agreement**

(1) If an owner or other person who is bound by an agreement for the maintenance and upkeep of a protected monument under Section 5 refuses or fails, within such reasonable time as the Director may fix, to do any act which in the opinion of the Director is necessary for the maintenance and upkeep of the monument, the Director may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement. (2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

## **10. Power to make order prohibiting contravention of agreement**

(1) If the Director apprehends that the owner or occupier of a protected monument intends to

destroy, injure, mutilate, deface, alter, disperse, remove, imperil or misuse the monument or to allow it fall into decay or to build on or near the site thereof in contravention of the terms of agreement under Section 5, he may after giving such owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement :Provided that no such opportunity may be given in any case where the Director, for reasons to be recorded, is satisfied that it is not expedient practicable to do so.(2)Any person aggrieved by an order made under sub-section (1) may appeal to the State Government within such time and in such manner as may be prescribed and the decision of State Government shall be final.

## **11. Purchasers and persons claiming through owner bound by instrument**

- Every person who purchases any land on which is situated a protected monument in respect of which any instrument has been executed by the owner for the time being under Section 4 or Section 5, and every person claiming any right, title or interest to or in a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

## **12. Acquisition of protected monument**

(1)If the State Government apprehends that a protected monument is in danger of being destroyed injured, mutilated, defaced, altered, dispersed, removed, misused or allowed to fall into decay, the State Government may acquire it under and in accordance with the provisions of the [Land Acquisition Act, 1894 (Central Act 1 of 1894)] [Words 'Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953)' Substituted by Notification No. F. 2(16)LAW/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).] as if the preservation, maintenance and upkeep of the monument were a public purposes within the meaning of that Act.(2)No protected monument shall be acquired under sub-section (1)-(a)if such monument or any part of it is periodically used for religious observances, or(b)if such monument is the subject of a subsisting agreement executed under Section 4 or Section 5, or(c)unless the owner or other person competent to enter into an agreement under Section 5 has failed to enter into an agreement proposed to him by the Collector under sub-section (1) of Section 5 within the period specified in such proposal, or(d)unless such owner or other person has terminated or given notice of his intention to terminate an agreement made under Section 5.

## **13. Maintenance of certain protected monument**

(1)The State Government shall maintain every monument which has been acquired under Section 12 or in respect of which any of the rights mentioned in [Section 4] [Words 'Section 14' Substituted by Notification No. F. 2(16) LAW/2/2006, dated 8.4.2006 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 10.4.2006) (w.e.f. 10.4.2006).] have been acquired.(2)When the Director has assumed or accepted the guardianship of a protected monument under Section 4, he shall, for the purpose of the maintenance and upkeep of 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 and repairing the monument and the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance and upkeep thereof.

**13A. [ Power to enter into agreement for the maintenance of certain monuments. - (1) The State Government may, for the purposes of maintenance of a monument falling under Section 13, enter into an agreement with any person, firm or trust on such terms and conditions, not inconsistent with the provisions of this Act, as may be specified in the agreement.**

(2)Notwithstanding anything contained in Section 20A, the person, firm or trust referred to in sub-section (1) shall be entitled to collect and retain the whole or such portion of the fee leviable under section 20-A and for such period as may be agreed upon between the State Government and such person, firm or trust, having regard to the expenditure involved in the maintenance of the monument and collection of fee, interest on the capital invested, reasonable return on the investment and the volume of visitors.] [Inserted by Notification No. F. 2(16) LAW/212006, dated 8.4.2006 (Published in Rajasthan Gazette Extraordinary Part. 4A,dated 10.4.2006) (w.e.f. 10,4.2006).]

#### **14. Voluntary contribution**

- The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds 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.

#### **15. Protection of place of worship from misuse, a pollution or desecration**

(1)A protected monument maintained by the State Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.(2)Where the State Government has acquired a protected monument under Section 12, or where the Director has purchased, or taken a lease, or accepted a gift or bequest or assumed or accepted guardianship of a protected monument under Section 4, and such monument or any part thereof is used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument or part thereof from pollution or desecration-(a)by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or(b)by taking such other action as he may think necessary in this behalf.

#### **16. Relinquishment of right in a protected monument**

- With the sanction of the State Government, the Director may, -(a)where rights have been acquired in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the Official Gazette, the rights so acquired to the person who would for the time being



be the owner of the monument as if such rights had not been acquired; or (b) relinquish any guardianship of a monument which he has accepted or assumed under this Act.

## **17. Penalties**

(1) Whoever—(i) destroys, injures, mutilates, defaces, alters, removes, disperses, misuses, imperils or allows to fall into decay a protected monument, or (ii) removes from a protected monument any sculpture, carving image basrelief, inscription or other like object, shall be punishable with imprisonment for a term which may extend to [three years or with fine which may extend to one lac] [Substituted by Notification No. F. 2(16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007)] rupees or with both. (2) Whoever,—(i) being the owner or occupier of a protected monument, contravenes an order made under Section 7 or Section 10, or (ii) contravenes any other provision of this chapter for which contravention no punishment is provided for elsewhere therein, shall be punishable with the like punishment.

## **18. Power to control mining etc. near protected monument**

(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 the 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 thereof shall be punishable with fine which may extend to [five thousand rupees] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A dated 9.10.2007) (w.e.f. 25.5.2007)].

## **19. Preservation of amenities of or to protected monument**

(1) If the State Government is of opinion that for the purpose of preserving amenities to or of any protected monument, it is necessary so to do, the State Government may, by notification in the Official Gazette, in respect of any area comprising or adjacent to the site of such monument and specified in such notification (hereinafter referred to as the controlled area),—(a) prohibit or restrict the construction, erection or execution of buildings, structures and other works above ground within the controlled area, or the alteration or extension of any such building, 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, structure 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 of public convenience vesting in it, that is to say a latrine, urinal, dustbin and the like located close to or in the vicinity of any protected monument; (d) prohibit or restrict the falling of trees within the

controlled area;(e)otherwise restrict the user of land within the controlled area to such extent as may appear to the State Government to be expedient for the purpose of preserving the amenities to or 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 sections 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 tehsil 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 objections to the issuing of such a notification, to submit their objections in writing to the State Government or to appear before any officer duly authorised in that behalf to hear objections on notification in the Official Gazette or within 15 days from the date of the publication of the notification in the controlled area, whichever period expires later.(3)If, before 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, after all the objections have been considered or heard, as the case may be, may either-(a)abandon the proposal to issue the notification under sub-section (1), or(b)issue the notification under sub-section (1) with such modification as it thinks fit.(4)In considering the objections, the decision of the State Government on the question of issuing the notification under sub-section (1) shall be final and conclusive.(5)Nothing contained in any notification under sub-section (1) shall affect any building, structure or other work above ground or any alteration or extension thereof, if it was constructed, erected or executed before the date when notice of intention to issue 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)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 [three thousand rupees] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinry part 4A dated 9.10.2007) (w.e.f. 25.5.2007)] 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 when 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 inconformity with the provisions of 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.

## **20. Right of access to protected monument**

(1)Subject to any rules made under this Act, the public shall have a right of access to every protected monuments.(2)In making any rule under sub-section (1), the State Government may provide that a

breach of it shall be punishable with fine which may extend to [Three thousand rupees].  
[Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary part 4A dated 9.10.2007) (w.e.f. 25.5.2007)]

**20A. [ Power to levy entrance fee. - (1) The State Government may, by notification in the Official Gazette, levy entrance fee in respect of such protected monuments, and at such rates not exceeding two thousand five hundred rupees per head, as may be specified in such notification:**

Provided that if the State Government is of the opinion that it is expedient in the public interest so to do, it may, by like notification exempt, wholly or partly, any class of persons from the payment of entrance fee.(2)Such entrance fee when so levied shall be collected in accordance with the rules made under this Act.] [Inserted by Notification No. F. 2(16) LAW/2/2006, dated 8.4.2006 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 10.4.2006) (w.e.f. 10.4.2006).]

## **Chapter III**

### **Protected Areas**

#### **21. Acquisition of a protected area**

- If the State Government is of opinion that any protected area contains an ancient or historical monument or antiquities of historical, archaeological or artistic importance, interest or value, it may acquire such area under and in accordance with the provisions of the [Land Acquisition Act, 1894 (Central Act 1 of 1894)] [Words 'Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953)' Substituted by Notification No. F. 2(16)LAW/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).] as if the acquisition thereof were for a public purpose within the meaning of that Act.

#### **22. Restrictions on 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 State 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 one foot of soil from the surface.(2)The State 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 Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

## **23. Excavations for archaeological or historical purposes**

- An archaeological officer or an officer authorised by him in this behalf or any person holding a licence granted in this behalf in the prescribed manner under this Act, (hereinafter referred to as the licence) may, after giving notice in writing to the Collector and owner, enter upon and make excavations in any protected area.(2)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 Collector and the owner, enter upon and make excavations in the area.

## **24. Restrictions on excavations**

(1)Notwithstanding anything contained in Section 23, no excavation or other like operation for archaeological or historical purposes shall be undertaken or authorised to be undertaken in any area except with the previous approval of the Central Government and in accordance with such rules, and directions, if any, as the Central Government may make or give in this behalf.(2)Where, in the exercise of the power conferred by Section 22, rights of any person are infringed by the occupation or disturbance of the surface of any land, the State Government shall pass to that person compensation for such infringement.

## **25. Disposal of Antiquities etc. discovered during excavations**

(1)Where as a result of excavations made in any area under Section 23, an 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 State Government in such manner and containing such particulars as may be prescribed, and(b)at the conclusion of the excavation operations, give notice in writing to the owner of the land, from which antiquities have been discovered, of the nature of such antiquities.(2)All such antiquities shall be deemed to be protected antiquities and, until orders of the State Government as to the disposal or compulsory purchase thereof are received, 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 State Government may make an order for the compulsory purchase of any such antiquities at their market value.(4)When an order for the compulsory purchase of any antiquities is made under sub-section (3) such antiquities shall vest in the State Government with effect from the date of the order.

## **26. Contravention 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 [three years or with fine which may extend to one lac] [Substituted by Notification No. F. 2(16)Law/2/2007, dated 8.10.2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).] rupees or with both.

## **27. Regulation of excavation in protected area**

(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 licence 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 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.

## **Chapter IV**

### **Protected Antiquities**

## **28. Power of Government to control movement of protected antiquities**

(1)If the State Government consider that any protected antiquities or class of protected antiquities ought not to be moved from the place where they are without the sanction of the State Government, the State Government may, by notification in the Official Gazette, direct that any such protected antiquity or any class of such protected antiquities shall not be moved except with the written permission of the Director.(2)Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.(3)Any person aggrieved by an order refusing permission may appeal to the State Government whose decision shall be final.(4)Any person who moves any protected antiquity in contravention of a notification issued under sub-section (1) shall be punishable with fine which may extend to [fifteen thousand rupees] [Substituted by Notification No. F.2 (16) Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinry Part 4A dated 9.10.2007) (w.e.f. 25.5.2007)].(5)If the owner of any property proves, to the satisfaction of the State Government, that he has suffered any loss or damage by reason of the inclusion of such property in a notification issued under sub-section (1), the State Government may-(a)exempt such property from the said notification, or(b)purchase such property at its market value, or(c)pay compensation for any loss or damage sustained by the owner of such property.

## **29. Purchase of protected antiquities by Government**

(1)If the State Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of Section 28 is in danger of being destroyed, injured, mutilated, defaced, altered, removed, dispersed, misused or allowed to fall into decay or is of opinion that by reason of its historical or archaeological or artistic importance, it is desirable to preserve such antiquity in a public place, the State Government may make an order for the compulsory purchase of such antiquity at its market value and the Collector shall thereupon give notice to the owner of the antiquity to be purchased :Provided that the power of purchase given by this sub-section shall not

extend in any image or symbol actually used for bonafide religious observances.(2)Where a notice of compulsory purchase is issued under sub-section (1) in respect of any antiquity such antiquity shall vest in the State Government with effect from the date of the notice.

## **Chapter V**

### **Miscellaneous**

#### **30. Constitution of an Advisory Board**

(1)For the purpose of advising, the State Government in the matter of the preservation, maintenance, upkeep, protection, acquisition, regulation and control of ancient or historical monuments archaeological sites and antiquities in the State, the State Government may constitute an Advisory Board under the name of the Rajasthan Board for Ancient Monuments, Archaeological Sites and Antiquities.(2)The constitution of the Advisory Board and the procedure regarding its work shall be such as may be prescribed.

#### **31. 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 State Government for such loss, damage or diminution of profits.

#### **32. Assessment of market value or compensation**

(1)The market value of any property which the State Government is empowered to purchase at such value under this Act or the compensation to be paid by the State Government in respect of anything done or any property acquired under this Act shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in the provisions of the [Land Acquisition Act,1894 (Central Act 1 of 1894)] [Words 'Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953)' Substituted by Notification. No. F. 2(16)Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary. Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).] in so far as those provisions can be made applicable :Provided that, when making an inquiry under that Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the State Government and the other a person nominated by the owner, or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.(2)Notwithstanding anything contained in sub-section (1) or in the [Land Acquisition Act,1894 (Central Act 1 of 1894)] [Words 'Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953)' Substituted by Notification. No. F. 2(16)Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary. Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).], 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 25 or under sub-section 1 of Section 29, any increase in the value of the antiquity by reason of its being of historical, archaeological or artistic importance,

interest or value shall not be taken into consideration.

### **33. Delegation of powers**

- The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may be exercised subject to such conditions, if any, as may be specified in such notification, by the Director or by any other officer not below the rank of a Collector as may be specified in the notification.

### **34. Jurisdiction of Court**

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

### **35. Special procedural provision**

- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act 5 of 1898)-(a)an offence under sub-section (1) of Section 17 shall be deemed to be a cognizable offence within the meaning of that Code, and(b)it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf 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.

### **36. Recovery of amount due to Government**

- Any amount due to the State 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.

### **37. Protection of action taken under the Act**

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

**37A. [ Rectification of error. Any clerical mistake, patent error or error arising from accidental slip or omission in the description of any ancient or historical monument or archaeological site or antiquity declared protected under this Act may, at any time, be corrected by the State Government by notification in the Official Gazette.] [Inserted by Notification No, F. 2(16)Law/2/2007, dated 8.10.2007 (Published in Rajasthan Gazette Extraordinary Part 4A, dated 9.10.2007) (w.e.f. 25.5.2007).]**

### **38. Power to make rule**

(1)The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may provide for all matters which under provision of this Act, may be, or are required to be, prescribed or provided for by rules.(3)Any rule made under this section may provide that a breach thereof shall be punishable with fine which may extend to [one lac rupees]. [Substituted by *ibid.*](4)All rules made under this section shall be laid before the House of the State Legislature as soon as possible after they are made and be subject to such modifications as that House may make during the session i- which they are so laid or the reason immediately following.

### **39. Repeal and Saving**

- The Ancient Monument Preservation Act, 1904 of the Central Legislature as adopted to the pre re-organisation State of Rajasthan or extending to the Abu and Ajmer areas and other corresponding Law of any State Legislature for the time being in force in any part of the State shall cease to have effect upon the coming into force of this Act, except as receipts things done or omitted to be done before the commencement of this Act.