

ATIONAL MUSEUM DECREE, 1969, (NLCD 387)

As amended by

**MINISTRIES, DEPARTMENTS AND AGENCIES (RETENTION OF FUNDS) ACT,
2007 (ACT 735)¹**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PART I—CONTROL OF ANTIQUITIES

1. Permit to export.
2. Inspection.
3. Prohibition of export and exemption.
4. Terms of permit to export.
5. Permit to be surrendered.
6. Compulsory purchase of antiquity.
7. Licence to sell.
8. Permit to excavate.
9. Permission to remove antiquity.
10. Duty to notify discovery.
11. National Monuments.
12. Offences.

PART II—ESTABLISHMENT, DUTIES AND POWERS OF BOARD

13. Ghana Museum and Monuments Board.
14. Duties of Board.
15. Annual Report.
16. Powers of Board.
17. Power to alienate.
18. Terms of office.

PART III—MEETINGS, PROCEEDINGS AND REMUNERATION

19. Meetings.
20. Committees.

21. Proceedings.

22. Remuneration.

PART IV—MEMBERS OF THE BOARD, OFFICERS AND EMPLOYEES

23. Appointments.

24. Pensions and gratuities.

PART V—FUNDS, ACCOUNTS AND AUDIT

25. Funds.

25A. Retention of internally generated funds.

26. Accountants and audit.

27. Auditor-General to audit accounts.

PART VI—GENERAL

28. Regulations.

29. Meaning of "National Museum".

30. Interpretation.

31. Repeal.

IN pursuance of the Proclamation entitled "Proclamation for the constitution of a National Liberation Council for the administration of Ghana and for other matters connected therewith", published in Gazette No. 11 of Monday, 28th February, 1996, this Decree is hereby made:—

PART I—CONTROL OF ANTIQUITIES

Paragraph 1—Permit to Export.

(1) No person shall export any antiquity except in accordance with an export permit issued by the Board.

(2) Application for an export permit shall be made in writing to the Director of the National Museum at least three months before the proposed date of export, unless the Board in its discretion accepts a lesser period.

(3) Every application shall contain the name of the antiquity, its function, a full description with dimensions, its local cost or an estimate of its value and the date when, the place where, and the person from whom it was obtained.

(4) Unless the Director otherwise requires, the application shall be accompanied by an adequate photograph or photographs of the antiquity.

Paragraph 2—Inspection.

(1) Unless the antiquity is delivered to the Director and left in his charge, the applicant shall state its location and, if it is to be moved, its expected location during the period before the date of the proposed export.

(2) The applicant shall permit and facilitate such access to, and inspection of, the antiquity as the Director may require and shall permit to be affixed or applied thereto any seal or identification mark of the Board.

Paragraph 3—Prohibition of Export and Exemption.

(1) The Director may, with the prior consent of the Board, prohibit the export of any antiquity if he considers that such export would not be in the public interest.

(2) The Director may give a certificate that any object does not require an export permit if in his judgment the object is not an antiquity within the meaning of this Decree.

Paragraph 4—Terms of permit to Export.

(1) An export permit shall be in the prescribed form and subject to such conditions as may be prescribed.

(2) No permit shall authorise the removal from Ghana of any antiquity except through a recognised customs port or airport.

Paragraph 5—Permit to be Surrendered.

No customs officer shall allow the export of any antiquity until there has been surrendered to him an export permit in respect of that antiquity.

Paragraph 6—Compulsory Purchase of Antiquity.

(1) Where the Director is of the opinion that any antiquity is likely or intended to be exported (whether lawfully or otherwise), or where an application for an export permit has been made and refused, the Director may—

(a) require the owner of the antiquity or the person in whose possession or custody it may be to surrender it to the National Museum; and

(b) pay for the antiquity a price which is assessed by the Board and which is, in the opinion of the Board, the fair market price of the antiquity in Ghana.

(2) Payment for an antiquity under this paragraph shall be made to the person who is, in the opinion of the Board, the owner or person otherwise lawfully entitled to receive payment therefor.

(3) Any person required to surrender an antiquity under this paragraph who fails to do so shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred New Cedis, and the antiquity shall be forfeited to the National Museum by order of the Court.

Paragraph 7—Licence to Sell.

(1) No person shall sell or offer any antiquity for sale by way of trade or business except in accordance with a licence issued by the Board.

(2) Application for a licence to sell antiquity shall be made in writing to the Director and shall be in such form and subject to such conditions as may be prescribed.

Paragraph 8—Permit to Excavate.

(1) No person shall by means of excavation or similar operation search for any antiquity unless authorised by a permit issued by the Board.

(2) Before issuing a permit to excavate, the Board shall satisfy itself that the applicant is competent by training and experience to carry out the operations for which the permit is required, and may require to be satisfied that the applicant has the financial or other support of an archaeological or scientific society or institution of good repute.

(3) A permit to excavate may be granted subject to such conditions as the Board thinks fit, and may at any time be revoked by the Board without reason assigned, and shall not confer any right to enter upon any land without the consent of the person entitled to grant consent.

(4) The person to whom a permit to excavate is granted and all persons engaged in any excavation or other operations to which it relates shall, if so required by any person authorised in writing by the Board, suspend the excavation or other operation until notified by the Board that it may be resumed.

Paragraph 9—Permission to remove Antiquity.

(1) No person shall remove any antiquity from its original site without the consent of the Board.

(2) Every person shall, when applying to the Board for consent under this paragraph, state the exact locality in which the antiquity is situated and the place to which, and the purpose for which, he wishes to remove it, and the Board may require him to submit an adequate photograph or photographs of the antiquity.

Paragraph 10—Duty to Notify Discovery.

(1) Every person who discovers an antiquity, and the owner or occupier of any land upon which an antiquity is discovered on becoming aware of the discovery, shall without delay notify the Board in writing of the discovery.

(2) No person mentioned in sub-paragraph (1) shall alienate the antiquity discovered until the Board has been notified, nor within six months of the date of notification without the written consent of the Board.

(3) When the Board becomes aware of the discovery of an antiquity but has not been notified, it may notify the discovery to any person who is or appears to be the owner or in control of the antiquity, and any person so notified shall not alienate the antiquity within six months of the date of notification by the Board without the written consent of the Board.

Paragraph 11—National Monuments.

(1) The Commissioner may, on the recommendation of the Board, by executive instrument proclaim any monument which does not belong to the State to be a national monument:

Provided that before making a recommendation under this paragraph the Board shall give not less than two months' written notice of its intention to make the recommendation to the owner or person in control of the monument, who may lodge with the Board objections in writing to the proposed recommendations; and the Board, when making any such recommendation, shall submit to the Commissioner evidence that the owner or person in control has received such notice, together with any objections lodged against the recommendation.

(2) The Commissioner may by executive instrument proclaim any monument which belongs to the State to be a national monument.

Paragraph 12—Offences.

(1) Any person who—

(a) exports or attempts to export any antiquity without an export permit or otherwise than in accordance with an export permit or otherwise than through a recognised customs port or airport; or

(b) sells or offers any antiquity for sale by way of trade or business without a licence or otherwise than in accordance with a licence issued by the Board; or

(c) by excavation or similar operations searches for any antiquity without a permit or otherwise than in accordance with a permit issued by the Board; or

(d) without the written consent of the Board, alters, destroys, damages or removes from its original site any antiquity, or attempts to do so; or

(e) defaces, damages or destroys any notice or tablet erected by the Board; or

(f) in any application to the Board or to the Director under this Decree, knowingly makes any statement which is false in any material respect or supplies any photograph which is false in any material respect; or

(g) wilfully obstructs any member or employee of the Board in the exercise of any power conferred on the Board by this Decree; or

(h) otherwise contravenes or fails to comply with any provision of this Decree,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred New Cedis or to imprisonment not exceeding twelve months, or to both.

(2) Where a person is convicted of attempting to export any antiquity contrary to any provision of this Decree the Court may order that the antiquity be forfeited to the National Museum.

(3) Where a person is convicted of an offence which has resulted in damage to, destruction or removal of any antiquity or any part thereof, or any notice or tablet erected by the Board, the court may, in addition to any other penalty which it may impose, order him to pay such sum as the court

may determine to repair the damage or for the value of the thing removed or destroyed, and may, in default of such payment, order him to be imprisoned for a further period not exceeding three months in addition to any term imposed under sub-paragraph (1).

PART II—ESTABLISHMENT, DUTIES AND POWERS OF BOARD

Paragraph 13—Ghana Museum and Monuments Board.

(1) There shall continue to be a Ghana Museum and Monuments Board consisting of not more than ten members appointed by the Commissioner.

(2) The Board shall continue to be a body corporate with perpetual succession and a common seal and subject to this Decree shall have power to acquire and hold land and other property.

Paragraph 14—Duties of Board.

It shall be the duty of the Board—

- (a) to equip, maintain and manage the National Museum;
- (b) to establish, equip, maintain and manage such other museums as it thinks fit;
- (c) to preserve, repair or restore any antiquity which it considers to be of national importance;
- (d) when required by the Commissioner, to investigate and report on any matter relating to any antiquity;
- (e) to keep a register of all antiquities which it acquires or which are brought to its notice.

Paragraph 15—Annual Report.

The Board shall on or before the 31st day of March, in each year forward to the Commissioner a report of its work during the year which ended on the 31st day of December last preceding and of any other matters connected with the preservation of antiquities.

Paragraph 16—Powers of Board.

(1) The Board may—

- (a) list all monuments whose proclamation as national monuments it considers desirable, ascertain the owner of any such monument, and recommend to the Commissioner the proclamation of any national monument;
- (b) if it has sufficient funds for the purpose, purchase or otherwise acquire by agreement any antiquity;
- (c) assume control over any antiquity with the consent of the person having the ownership or control thereof;
- (d) insure any antiquity which is owned by it or is under its control;

(e) lend, or subject to paragraph 17, give any such antiquity to any museum or other public institution;

(f) with the prior permission in writing of the owner or person having control of any site of any antiquity, undertake the excavation of such site and authorise any act to be done which it considers necessary for that purpose and for preserving any antiquity discovered during the excavation;

(g) with the prior consent in writing of the owner or person having control of the property concerned, erect notices or tablets in suitable places to provide information about historic events occurring there;

(h) through any of its members or servants, have reasonable access at all reasonable times to any antiquity;

(i) prepare and issue publications on antiquities;

(j) arrange exhibitions of antiquities in Ghana or elsewhere.

(2) The Board may—

(a) grant sums of money or give other material assistance to any external museum;

(b) at the request of any external museum, provide technical help or appoint its representatives to the staff or controlling body of that museum, or take over the control of that museum.

Paragraph 17—Power to Alienate.

(1) The Board may dispose of any antiquity owned or controlled by it by way of exchange where the Director of the National Museum certifies in writing that the exchange is desirable in the interests of the National Museum.

(2) Save as aforesaid, the Board shall not without the written consent of the Commissioner alienate, hypothecate or let any antiquity owned or controlled by it.

Paragraph 18—Terms of Office.

The members of the Board shall hold office for such period as the Commissioner may determine, but any such member may at any time resign his office by giving written notice to the Commissioner, or may be removed from office if the Commissioner in writing so directs.

PART III—MEETINGS, PROCEEDINGS AND REMUNERATION

Paragraph 19—Meetings.

(1) A member of the Board shall be appointed by the Commissioner as Chairman of the Board.

(2) The Director of the National Museum shall be a member of the Board.

(3) The Board shall ordinarily meet at such times and places as the Chairman may determine and in any event at least twice a year.

(4) The Chairman may, and on the request in writing of not less than four members of the Board shall, call a special meeting of the Board at such time and place as he may determine.

(5) The Chairman shall preside over all meetings of the Board but in his absence from any meeting a member nominated by him, or if no such member is nominated, a member appointed by the members present, shall preside at that meeting.

(6) A decision of the majority of the members of the Board present at any meeting shall be deemed to be a decision of the Board and in the event of an equality of votes the Chairman or the member presiding shall have a second or casting vote.

(7) The quorum at any meeting of the Board shall be four.

Paragraph 20—Committees.

(1) The Board may appoint from among its members such Committees as it may consider necessary and may delegate to any such committee such of its powers as the Board may specify.

(2) A committee of the Board may co-opt as additional members of the committee such number of persons as it thinks fit not exceeding one-third of the total number of members of the committee.

Paragraph 21—Proceedings.

No vacancy among the members of the Board or defect in the appointment of any such members shall affect the validity of any act or proceeding of the Board.

Paragraph 22—Remuneration.

No remuneration shall be paid to members of the Board or to co-opted members of committees but each such member may be paid such reasonable travelling expenses as he may incur whilst engaged upon the Board's business and at such rates as may be determined by the Commissioner.

PART IV—MEMBERS OF THE BOARD, OFFICERS AND EMPLOYEES

Paragraph 23—Appointments.

(1) The Commissioner may determine the method of appointment and qualifications of the members of the Board and the period for which they shall hold office.

(2) The Board shall have power to appoint a Director of the National Museum and such other officers and employees as it considers necessary for the efficient conduct of its functions upon such terms and conditions as it may with the approval of the Commissioner determine.

Paragraph 24—Pensions and Gratuities.

The Board may grant pensions and gratuities or retiring allowances to any officers or employees and may require such officers to contribute to any pension or superannuation scheme.

PART V—FUNDS, ACCOUNTS AND AUDIT

Paragraph 25—Funds.

(1) The funds of the Board shall include all grants, subventions, donations, fees, subscriptions and other sums accruing to the Board in the discharge of its functions, and shall be applied exclusively to carry out the objects of the Board as specified in this Decree.

(2) All moneys received on behalf of the Board shall be paid into its account at a bank approved for that purpose by the Commissioner responsible for Finance.

Paragraph 25A—Retention of internally generated funds.

The National Museum may retain the percentage specified in the second column of the First Schedule out of the moneys realised in the performance of its functions.[Amended by Departments and Agencies (Retention of Funds) Act, 2007 (Act 735) s.2, (sch.2)]

Paragraph 26—Accounts and Audit.

(1) The Board shall keep proper books of account and proper records in relation thereto.

(2) Subject to such directions as to form as the Commissioner responsible for Finance and the Commissioner may jointly give, the Board shall prepare in each financial year a statement of account which shall include—

(a) a balance sheet, a statement of income and expense and a statement of surplus containing such information as, had the Board been a company registered under the Companies Code, 1963 (Act 179), would be required to be laid before the company by the directors at an annual meeting; and

(b) such other information in respect of the financial affairs of the Board as the Commissioner responsible for Finance may require.

(3) The Board shall, as soon as possible but within six months after the end of each financial year, submit an annual report to the Commissioner, in such form as the Commissioner may prescribe, which shall include the statements of account specified in sub-paragraph (2) of this paragraph, and the Commissioner shall as soon as practicable lay the report before the Government.

(4) The Board shall submit to the Commissioner such other reports of its financial affairs as the Commissioner may require.

(5) The Board's financial year shall end on the same day as that of the Central Government each year.

Paragraph 27—Auditor-General to Audit Accounts.

(1) The Auditor-General or an auditor appointed by him shall every year audit the books and accounts of the Board and shall, not later than the 31st day of March each year, forward to the Commissioner a copy of the audited accounts and his report thereon.

(2) The Auditor-General shall report every year to the Commissioner the results of his examination and the report shall state whether in his opinion—

(a) proper books of accounts have been kept by the Board;

(b) the financial statement of the Board—

(i) was prepared on a basis consistent with that of the preceding year and is in agreement with the books of accounts,

(ii) in the case of the balance sheet, gives a true and fair view of the state of the Board's affairs as at the end of the financial year; and

(iii) in the case of the statement of income and expense, gives a true and fair view of the income and expense or profit and loss account of the Board for the financial year,

and the Auditor-General shall call the attention of the Commissioner to any other matter falling within the scope of his examination which in his opinion should be brought to the attention of the Government.

(3) The Auditor-General shall make to the Board or to the Commissioner such other reports as he considers necessary or as the Government, the Commissioner responsible for Finance or the Commissioner may require.

(4) The annual report of the Auditor-General shall be included in the annual report of the Board.

PART VI—GENERAL

Paragraph 28—Regulations.

(1) The Board may by executive instrument make regulations—

(a) providing for access of the public to any antiquities owned by or under the control of the Board, and fixing fees payable for such access;

(b) providing for the licensing of persons selling antiquities by way of trade or business;

(c) prescribing the fees payable for the issue or grant of any licence or permit required to be issued or granted under this Decree;

(d) safeguarding antiquities and tablets and notices erected by the Board from disfigurement, alteration, removal, or destruction;

(e) regulating and imposing conditions with respect to the excavation, removal or export of antiquities, and for any other matter to be prescribed under this Decree;

(f) generally for carrying out the principles and purpose of this Decree.

(2) Regulations made under this paragraph may prescribe fines not exceeding fifty New Cedis.

(3) No such regulations shall be made until they have been approved by the Commissioner.

Paragraph 29—Meaning of "National Museum".

The National Museum shall be deemed also to include the Natural History Museum, the Museum of Science and Technology, and such other museums as may be designated by the Commissioner for that purpose by executive instrument.

Paragraph 30—Interpretation.

In this Decree, unless the context otherwise requires—

"antiquity" means—

(a) an object of archaeological interest or land in which any such object is believed to exist or was discovered, including any land adjacent to such object or land which in the opinion of the Board is reasonably required to maintain the object or the land or its amenities or to provide access thereto, or for the exercise of proper control or management over such object or land; or

(b) any work or art or craftwork, including any statue, modelled clay figure, figure, cast or wrought iron metal carving, housepost, door, ancestral figure, religious mask, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, if such work of art or craftwork is of indigenous origin and

(i) was made or fashioned before the year 1900, or—

(ii) is of historical, artistic, or scientific interest, and is or has been used at any time in the performance, and for the purposes of, any traditional ceremony;

"Board" means the Ghana Museum and Monuments Board;

"Commissioner" means the Commissioner responsible for Education;

"Director" means the Director of the National Museum;

"external museum" means a museum in Ghana other than a museum within the direct control of the National Museum;

"maintenance", in relation to an antiquity, includes the fencing, repairing, and covering in of the antiquity, and the doing of any other act or thing which may be required to repair or protect it from decay or injury;

"object of archaeological interest" means—

(a) any fossil remains of man or of animals found in association with man; or

(b) any site, trace or ruin of an ancient habitation, working place, midden or sacred place; or

(c) any cave or other natural shelter, or engraving, drawing, inscription, painting or inscription on rock or elsewhere; or

(d) any stone object or implement believed to have been used or produced by early man; or

(e) any ancient structure, erection, memorial, causeway, bridge, cairn, tumulus, grave, shrine, excavation, well, water tank, artificial pool, monolith, group of stones, earthwork, wall gateway or fortification; or

(f) any antiquity tool or object of metal, wood, stone, clay, leather, textile, basketware or other material, which is of archaeological interest.

Paragraph 31—Repeal.

The Ghana Museum and Monuments Board Ordinance, 1957 (No. 20) is hereby repealed.

Made this 29th day of August, 1969.

J. W. K. HARLLEY

Deputy Chairman of the National Liberation Council.

Date of Gazette Notification: 8th August, 1969.