

Draft Antiquities and Art Treasures Regulation, Export and Import Bill, 2017 is being uploaded on the ASI website. Suggestions on the draft bill are invited from the public at the following email ID dirant.asi@gmail.com within 30 days from the date of upload.

THE ANTIQUITIES AND ART TREASURES REGULATION, EXPORT & IMPORT CONTROL
BILL, 2017

A

BILL

to provide for the preservation, protection and promotion of antiquities and art treasures, to provide for the sound development and regulation of domestic trade in antiquities and art treasures, to provide for the prevention of fraudulent dealings in antiquities and art treasures, to provide for the compulsory acquisition thereof for preservation in public places, to regulate the export and import in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities and art treasures and to provide for certain other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

Short title,
extent and
commencement.

1. (1) This Act may be called the Antiquities and Art Treasures Regulation, Export & Import Control Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act

and for different States and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,-

(a) "antiquity" includes-

(i) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;

(ii) any article, object or thing detached from a building or cave;

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(iv) any article, object or thing of historical or archaeological interest;

(v) any article, object or thing declared by the the Central Government, by notification, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years on the thirty-first day of December of every year; and

(II) any manuscript, record or other document which is of scientific, historical, literary or

aesthetic value and which has been in existence for not less than seventy-five years on the thirty-first day of December of every year;

(b) “art treasure” means any human work or expression of art or any art object, whether an antiquity or not, declared by the Central Government by notification, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;

(c) “Collector” means any Revenue officer in independent charge of a district, and any officer appointed by the State Government to perform the functions of a Collector under this Act;

(d) “Expert Advisory Committee” means an Expert Advisory Committee constituted under sub-section (2) of section 4;

(e) “export” means taking out of India any antiquity or art treasure by land, sea or air, but shall not include temporary removal of an antiquity or art treasure from India to any place outside India for the purposes of public display or exhibition for a

period not exceeding three years;

(f) "import" means bringing into India any antiquity or art treasure by land, sea or air, but shall not include temporary bringing into India an antiquity or art treasure from any place outside India for the purposes of public display or exhibition for a period not exceeding three years;

(g) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(h) "prescribed" means prescribed by rules made under this Act.

(2) The words and expressions used but not defined in this Act and defined in the Customs Act, 1962 shall have the same meanings respectively assigned to them in that Act.

(3) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

Carrying on
Business of
selling or
offering to sell

3. (1) Subject to the provisions of sub-section (2), any person may, on and from the commencement of this Act, carry on freely within the country the business of selling or

antiquities and art treasures to be free.

offering to sell antiquities or art treasures himself or by any other person on his behalf:

Provided that the provisions of local laws in so far as they apply to the relevant business establishments shall regulate the business of antiquities and art treasures.

Explanation.- For the purpose of this section, the expression “local laws” means such Central or State laws, including the rules, regulations, guidelines or instructions issued thereunder, which are in force in the area where the business of selling or offer to sell antiquities or art treasures is being carried on by a person.

(2) Whenever any person intends to carry on the business of selling or offering to sell antiquities or art treasures himself or by any other person on his behalf under sub-section (1), he shall,-

(i) upload such details of the antiquities or art treasures in such manner on the web portal as may be prescribed:

Provided that at the end of upload of the details referred to in clause (i), a disclaimer to the effect that the details uploaded on the web portal does not render, such antiquity or art treasure as authentic and genuine;

- (ii) deliver a copy of the details uploaded on the web portal along with the sold antiquity or the sold art treasure to the purchaser;
- (iii) take due care that the details uploaded on the web portal by him or any other person on his behalf remains secured or un-tampered.

(3) Where any person sells any antiquity or art treasure in violation of the provisions of this section, such sale of antiquity or art treasure shall be void.

Power to determine whether or not an article, etc., is antiquity or art treasure, and the constitution of Expert Advisory Committees.

4. (1) Whenever,-

- (a) any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act; or
- (b) any person requests to have the origin and authenticity or genuineness of an antiquity or art treasure certified,

such question or request shall be referred, accompanied by such amounts of fees and in such manner as may be prescribed, to the concerned Expert Advisory Committee for its decision:

Provided that no fee shall be charged where any question

under clause (a) is from any law enforcing agency of the Central Government or a State Government.

(2) The Central Government may, by notified order,-

(a) constitute as many Expert Advisory

Committees as it thinks fit for the purposes as mentioned in sub-section (1);

(b) define the limits of the area within which an

Expert Advisory Committee shall receive a question or request referred to in sub-section

(1) for its decision.

(3) An Expert Advisory Committee shall consist of,-

(a) a convenor to be appointed from amongst the officers of the Archaeological Survey of India, not below the rank of a Superintending Archaeologist – *ex officio*;

(b) in the absence of the convenor, an alternate convenor to be appointed from amongst the officers of the Archaeological Survey of India, not below the rank of a Deputy Superintending Archaeologist – *ex officio*;

(c) not less than three other members to be co-opted from a panel of expert persons, to be prepared by the Central Government, having proven experience and expertise in the fields of antiquities and art treasures, archaeology, handicrafts, textiles, heritage and such other fields as may

be prescribed.

(4) The terms and conditions of appointment of expert persons, whenever co-opted as members of an Expert Advisory Committee, shall be such as may be prescribed.

(5) An Expert Advisory Committee shall exercise the following powers and functions:-

(a) to decide any question referred to it and declare as to whether any article, object or thing or manuscript record or other document is or is not an antiquity or whether such article, object or thing or manuscript record or other document is or is not an Art treasure;

(b) to certify the origin and authenticity or genuineness of an antiquity or art treasure;

(c) to decide or determine any question or issue as may be referred to an expert advisory committee by the Director General, Archaeological Survey of India;

(d) to give opinion or advice on any other issue or question requiring expert opinion or advice.

Appeal against
decision of an
Expert Advisory
Committee.

5. (1) Any person aggrieved by a decision of an Expert Advisory Committee under section 4 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to an Appellate Committee:

Provided that the Appellate Committee may, entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

(2) The Central Government shall constitute an Appellate Committee consisting of –

(a) the Director-General, Archaeological Survey of India, who shall be the Presiding Officer:

Provided that if, the Director-General, Archaeological Survey of India, at any time, is unable to preside over the Appellate Committee hearing, he may in writing authorise an officer not below the rank of a Director in the Archaeological Survey of India to preside over the Appellate Committee ;

(b) not less than three experts to be co-opted, from the fields of expertise which, having regard to the nature of appeal, may be considered relevant in deciding the appeal, by the Presiding Officer.

(3) The terms and conditions of co-option, the manner of co-option of expert members of the Appellate Committee shall be such as may be prescribed.

(4) On receipt of an appeal under sub-section (1), the

Appellate Committee shall, after giving the appellant an opportunity of being heard, pass such orders as it deems fit.

Power of
Central
Government to
compulsorily
acquire
antiquities and
art treasures.

6. (1) If the Central Government is of opinion that it is desirable to preserve or protect any antiquity or art treasure in a public place, it may make an order for the compulsory acquisition of such antiquity or art treasure.

(2) On the making of an order under sub-section (1), the Collector of the district in which such antiquity or art treasure is kept shall give notice to the owner thereof intimating him of the decision of the Central Government to acquire the same and it shall be lawful for the Collector to take possession of such antiquity or art treasure, for which purpose the Collector may use such force as may be necessary.

(3) Where the owner of any antiquity or art treasure the possession of which has been taken over by the Collector under sub-section (2) objects to the taking over of such possession, he may, within a period of thirty days from the date on which such possession was taken over, make a representation to the Central Government putting forth his objections:

Provided that the Central Government may entertain the

representation after the expiry of the said period of thirty days, if it is satisfied that the owner of such antiquity or art treasure was prevented by sufficient cause from making the representation in time.

(4) On receipt of any representation under sub-section (3), the Central Government after making such inquiry as it deems fit and after giving to the objector making the representation an opportunity of being heard in the matter, shall, within a period of ninety days from the date of receipt of the representation, either rescind or confirm the order made by it under sub-section (1).

(5) Where any order made by the Central Government under sub-section (1) is rescinded under sub-section (4) the antiquity or art treasure shall be returned to the owner thereof without delay at the expense of the Central Government.

(6) Where the order made by the Central Government under sub-section (1) is reconfirmed under sub-section (4) the antiquity or art treasure shall vest in the Central Government with effect from the date on which the possession thereof has been taken over by the Collector under sub-section (2).

(7) The power of compulsory acquisition conferred by this

section shall not extend to any object, being an antiquity or art treasure, used for *bona fide* religious observances.

Explanation.- In this section, “public place” means any place which is open to the use of the public, whether on payment of fees or not, or whether it is actually used by the public or not.

Payment of
compensation
for antiquities
and art
treasures
compulsorily
acquired under
section 6.

7. (1) Where any antiquity or art treasure is compulsorily acquired under section 6, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint an arbitrator who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the antiquity or art treasure compulsorily acquired to assist the arbitrator and

where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and the provisions of sub-section (2);

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration and Conciliation Act,

1996 shall apply to arbitration under this section.

(2) While determining the compensation under sub- 26 of 1996.

section (1), the arbitrator shall have regard to the following

factors, namely:-

(i) the date or the period to which the antiquity

or art treasure belongs;

(ii) the artistic, aesthetic, historical,

architectural, archaeological or

anthropological importance of the

antiquity or art treasure;

(iii) the rarity of the antiquity or art treasure;

(iv) such other matters as are relevant to the

dispute.

(3) The arbitrator appointed under sub-section (1), while

holding arbitration proceedings under this section, shall

have all the powers of a civil court, while trying a suit

under the Code of Civil Procedure, 1908 in respect of the

following matters, namely:-

5 of 1908.

(a) summoning and enforcing the attendance of

any person and examining him on oath;

(b) requiring the discovery and production of any

document;

- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witnesses.

Appeal against the awards of arbitrators. **8.** Any person aggrieved by an award of the arbitrator made under section 7 may, within thirty days from the date on which the award is communicated to him, prefer an appeal to the High Court within whose jurisdiction he resides:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

Power to write off. **9.** The Director-General, Archaeological Survey of India may, with the concurrence of the Central Government, write off any antiquity or art treasure which has lost its antiquarian value because of its wear and tear over a period of time.

Export of
Antiquities

10. (1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorised by the Central Government in this behalf, to export any antiquity or art treasure.

(2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure, such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such competent authority as may be prescribed.

(3) Whenever the Central Government comes to know that an antiquity of Indian origin, which was,-

(a) taken out of India illegally or clandestinely; or

(b) exported in contravention of any provisions of

law in force governing export of antiquities at

the time of making such export,

is or has been found in a foreign land, the Central Government shall immediately make all efforts to ensure the retrieval of such antiquity from that foreign land.

Import of
antiquities

11. (1) On and from the commencement of this Act, it shall not be lawful for any person to import any antiquity or

art treasure himself or by another person on his behalf unless such person complies with the provisions of subsection (2).

(2) Whenever any person intends to import any antiquity or art treasure himself or by another person on his behalf such import shall be made only if he uploads on the web portal such details of the antiquity or art treasure (which he intends to import) in such manner as may be prescribed.

(3) The Central Government may relax the duty on import of certain antiquities or art treasures on such terms and conditions as may be prescribed.

Application of
Customs Act
1962

12. The Customs Act, 1962, shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorised by the Central Government) is prohibited under section 10, save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of the Customs 1962) any confiscation authorised under that Act shall be made unless the

125 of 1962

Central Government on an application made to it in this behalf, otherwise directs:

Provided that where,-

- (a) any person including a private collector or institution, after lawful purchase, brings back into India any heritage antiquity or art treasure of historical importance (having originated from India but illegally or clandestinely taken out of India); or
- (b) any artist, craftsman or sculptor brings into India from a foreign land his creation such as painting, sculpture or other work of art or craftsmanship at the time of his repatriation, to begin from the next time such antiquity or art treasure shall be free from duty of customs.

Examination of the object at customs exit channels

13. (1) The Central Government shall nominate for each customs area an officer not below the rank of a Deputy Superintending Archaeologist of the Archaeological Survey of India to assist the proper officer in clearing any imported or export article, object or thing or manuscript, record or other document kept at the customs area.

(2) Whenever, any proper officer, while clearing, requires

to know, whether any of the imported or export article, object or thing or manuscript, record or other document is or is not an antiquity or is not an art treasure, he shall inform his such requirement to the concerned officer nominated under sub-section (1) and if that nominated officer, after due verification, finds, any imported or export article, object or thing or manuscript, record or other document, to be a suspected antiquity, he shall refer the matter forthwith to the convenor of the concerned Expert Advisory Committee for causing the matter to be decided by the Expert Advisory Committee.

Offences by
Companies

14. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation.- For the purpose of this section,-

- (a) “company” means anybody corporate and includes a firm or other association of individuals; and
“director” in relation to a firm, means a partner in the firm.

Penalty

15. (1) If any person, himself or by any other person on his behalf, exports or attempts to export any antiquity or art treasure in contravention of section 10, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962 as applied by section 4, be punishable with imprisonment for a term which shall not be less than 5 years and with fine.

(2) If any person, himself or by any other person on his behalf, import or attempts to import any antiquity or art treasure in contravention of section 11, he shall, without

prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962 as applied by section 4, be punishable with imprisonment for a term of 6 months and with fine.

(3) If any person contravenes the provisions of section 3(2), he shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding Rupees Five Lacs or with both and the antiquity in respect of which the offence has been committed shall be liable to confiscation.

Cognizance of offences **16.** (1) No prosecution for an offence under sub-section (1) of section 15 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf.

(2) No court shall take cognizance of an offence punishable under sub-section (1) of section 15 except upon complaint in writing made by an officer generally or specially authorised in this behalf by the Central Government.

(3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

Protection of **17.** No suit, prosecution or other legal proceeding shall lie

action taken in against the Government or any officer of the Government
good faith. for anything which is in the good faith done or is intended
to be done under this Act.

Application of **18.** The provisions of this Act shall be in addition to, and
other laws not not in derogation of, the provisions of the Ancient
barred Monuments Preservation Act, 1904, or the Ancient 7 of 1904.
Monuments and Archaeological Sites and Remains Act,
1958, or any other law for the time being in force. 24 of 1958.

Power to make **19.** (1) The Central Government may, by notification,
rules. make rules for the purpose of giving effect to the
provisions of this Act.

(2) In particular and without prejudice to the generality of
the foregoing power, such rules may provide for-

(a) the details of antiquities or art treasures and the
manner in which the details are to be uploaded on the
web portal under sub-section (2) of section 3;

(b) the amount of fee to be accompanied by the question
or the request and the manner in which the question or
request be referred under sub-section (1), the other fields
from which a panel of expert persons be prepared under
clause (c) of sub-section (3), the powers and functions of
the Expert Advisory Committee and the procedure to be

followed in deciding the question or request under sub-section (4) and the terms and conditions of expert persons, whenever co-opted as other members of the Expert Advisory Committee, under sub-section (5) of section 4;

(c) the terms and conditions and the manner of co-option of expert members of the Appellate Committee under sub-section (3) of section 5;

(d) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprising in one session or in two or more successive sessions, and if , before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree to making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulments shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties

20. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notified order, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and
saving.

21. (1) The Antiquities and Art Treasures Act, 1972 is hereby repealed.

(2) The repeal of the Antiquities and Art Treasures Act, 1972 shall, however, not affect,-

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, confiscation or punishment

incurred in respect of any contravention
under the Act so repealed; or

(d) any proceeding or remedy in respect
of any such right, privilege, obligation,
liability, penalty, confiscation or
punishment as aforesaid, and any such
proceeding or remedy may be instituted, continued
or enforced, and any such penalty, confiscation or
punishment may be imposed or made as if that Act
had not been repealed.

(3) For the removal of doubts it is hereby declared that
every licence issued under section 3 of the Antiquities and
Art Treasures Act, 1972 repealed under sub-section (1)
and in force at the commencement of this Act shall,
subjected to the period specified therein, cease to be in
force.