



LAWS OF KENYA

THE NATIONAL MUSEUMS AND HERITAGE ACT

CHAPTER 216

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CHAPTER 216**THE NATIONAL MUSEUMS AND HERITAGE ACT****ARRANGEMENT OF SECTIONS****PART I—PRELIMINARY***Section*

- 1—Short title.
- 2—Interpretation.

**PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE
NATIONAL MUSEUMS OF KENYA**

- 3—Establishment of the National Museums of Kenya.
- 4—Functions of National Museums.
- 5—Powers of the National Museums.
- 6—Board of Directors.
- 7—Tenure of office.
- 8—Termination of appointment of Chairman and members of the Board.
- 9—Disclosure of interest by Chairman and members.
- 10—Meetings of the Board.
- 11—Delegation by the Board.
- 12—Protection from personal liability.
- 13—Liability of the Board in contract and tort.
- 14—The Director-General.
- 15—Staff.
- 16—Appointment of advisory committees.
- 17—National Museums to undertake research etc.

PART III—FINANCIAL PROVISIONS

- 18—Funds of the National Museums.
- 19—Financial year.
- 20—Annual estimates.
- 21—Investment of funds.
- 22—Restriction on loans to Board members and staff.
- 23—Accounts and audit.
- 24—Annual report.

PART IV—HERITAGE DECLARATIONS

- 25—Declaration of monuments etc.
- 26—Registers.

Section

PART V—SEARCHES AND DISCOVERIES

- 27—Exploration licences.
- 28—Conditions and forms of exploration licence.
- 29—Entry on land under exploration licence.
- 30—Notification of discovery.
- 31—Restriction on moving objects.
- 32—Offences.

PART VI—PROTECTED AREAS

- 33—Where protected area is Trustland.
- 34—Control of access etc. to protected area.
- 35—Compensation to owner of land in protected area.
- 36—Offences.

PART VII—MONUMENTS

- 37—Inspection and repair of monuments.
- 38—Acquisition of monuments and antiquities.
- 39—Guardianship of monuments.
- 40—Agreements for protection or preservation of monuments.
- 41—Enforcement of agreements for protection of monuments.
- 42—Compulsory purchase of monuments.
- 43—Duties of Board to protect and maintain monuments.
- 44—Power of National Museums to relinquish rights over monuments.
- 45—Offences.

PART VIII—ANTIQUITIES AND PROTECTED OBJECTS

- 46—Antiquities property of Government.
- 47—Information concerning antiquities and protected objects.
- 48—Prohibition of removal of antiquities and protected objects.
- 49—Prohibition of sales, etc., of antiquities and protected objects.
- 50—Compulsory acquisition of antiquities and protected objects.
- 51—Offences.

PART IX—EXPORT

- 52—Conditions relating to export.
- 53—Notices to Minister to acquire by compulsory purchase.
- 54—Export through Customs port of entry.
- 55—Offences.

Section

PART X—POWERS OF ENFORCEMENT

- 56—Inspection by the National Museums.
- 57—Heritage wardens.
- 58—Power of heritage wardens to inspect.
- 59—Power of arrest.
- 60—Power of customs officers.
- 61—Forfeiture to Government after seizure.
- 62—Notices.
- 63—Offences.

PART XI—GENERAL

- 64—Burden of proof.
- 65—Stamp duty exemption.
- 66—Rules.
- 67—Licensing of Museums.
- 68—Regulations.
- 69—Transitional provisions.
- 70—Repeals.

PART XII—MISCELLANEOUS

- 71—Amendment to section 4 of Cap. 130.
- 72—Amendment to section 145 of Cap. 265.
- 73—Amendment to section 201 of Cap. 265.
- 74—Amendment to section 7 of Cap. 306.
- 75—Amendment to section 17 of Cap. 499.
- 76—Amendment to section 47 of Act No. 6 of 1996.
- 77—Amendment to section 38 of Act No. 8 of 1999.
- 78—Amendment to section 116 of Cap. 280.
- 79—Amendment to section 65 of Cap. 281.
- 80—Amendment to section 172 of Cap. 282.
- 81—Amendment to section 136 of Cap. 300.

SCHEDULES

CHAPTER 216

THE NATIONAL MUSEUMS AND HERITAGE ACT

Commencement: 8th September, 2006

An Act of Parliament to consolidate the law relating to national museums and heritage; to provide for the establishment control, management and development of national museums and the identification, protection, conservation and transmission of the cultural and natural heritage of Kenya; to repeal the Antiquities and Monuments Act and the National Museums Act; and for connected purposes Cap. 215.
Cap. 216.

ENACTED by the Parliament of Kenya as follows:

PART I—PRELIMINARY

1. This Act may be cited as the National Museums and Heritage Act. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“antiquity” means any movable object other than a book or document made in or imported into Kenya before the year 1895, or any human, faunal or floral remains of similar minimum age which may exist in Kenya;

“Board” means the National Museums Board established under section 6;

“cultural heritage” means—

- (a) monuments;
- (b) architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of universal value from the point of view of history, art or science;
- (c) groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding value from the point of view of history, art or science;

- (d) works of humanity or the combined works of nature and humanity, and areas including archaeological sites which are of outstanding value from the historical, aesthetic, ethnological or anthropological point of view;

and includes objects of archaeological or palaeontological interest, objects of historical interest and protected objects;

“Director-General” means the Director-General of the National Museums appointed under section 14;

“exploration licence” means an exploration licence issued under section 27;

“export permit” means a permit to export a monument or part thereof, an antiquity, or a protected object, issued by the Minister under section 52;

“geo-park” means an area of natural heritage;

“heritage” means natural and cultural heritage;

“heritage warden” means a person appointed under section 57;

“maintenance” includes the fencing, covering in, repairing, restoring and cleansing of a monument or the fencing or covering of a protected area, and the doing of any act which may be necessary for the purpose of maintaining or protecting a monument or a protected area or of securing convenient access thereto;

“Minister” means the Minister for the time being responsible for the National Museums;

“monument” means—

- (a) a place or immovable structure of any age which, being of historical, cultural, scientific, architectural, technological or other human interest has been and remains declared by the Minister under section 25 (1) (b) to be a monument;
- (b) a rock-painting, carving or inscription made on an immovable object;
- (c) an ancient earthwork or other immovable object attributable to human activity;

(d) a structure which is of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attached to it; and has been and remains declared by the Minister under section 25 (1) (b) to be a monument;

(e) a shipwreck more than fifty years old;

and such adjoining land as may be required for maintenance thereof;

“museum” means a public or private institution which collects, preserves, analyses and exhibit objects of cultural and natural heritage;

“national museum” means a museum vested in the National Museums;

“the National Museums” means the National Museums of Kenya established under section 3;

“natural heritage” means—

(a) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;

(b) geological or physiographical formations of special significance, rarity or beauty;

(c) precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science, conservation or natural beauty; or

(d) areas which are or have been of religious significance, use or veneration and which include but are not limited to Kayas;

“object of archaeological or palaeontological interest” means an antiquity which was in existence before the year 1800;

“object of historical, cultural or scientific interest” means an object which came into existence in or after the year 1800;

“open space” means an open space not built upon in any urban or peri-urban area whether in a municipality or not to which the public has access and which may be used for parks, gardens, recreation grounds or any other use whatsoever;

“owner” includes a joint owner invested with powers of management on behalf of himself and other joint owners, and an agent or trustee exercising powers of management over a monument, and the successor in title of any such owner, the successor in office of any such agent or trustee; but nothing in this Act shall be deemed to extend the powers which may be lawfully exercised by the owner, agent or trustee;

“permit” means a valid and subsisting permit issued by the Minister under the provisions of this Act;

“private land” means land privately owned and land the subject of a grant, lease or licence from the Government, and includes Trust land;

“protected area” means a site which has been and remains declared by the Minister under section 25 (1) (a) or (c) or (f) to be a protected area;

“protected building” means a building of special architectural or historical interest declared by the Minister to be a protected building under section 25 (1) (e) and includes any object or structure fixed to the building;

“protected object” means—

- (a) a door or door—frame carved in an African or Oriental style before the year 1946; or
- (b) any other object or type of object, whether or not part of an immovable structure, which being of historical or cultural interest has been and remains declared by the Minister under section 25 (1) (d) to be a protected object;

(2) This Act extends to heritage including monuments, antiquities and shipwrecks in lakes and waters within Kenya, or on the seabed within the territorial waters of Kenya.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NATIONAL MUSEUMS OF KENYA

Establishment of the National Museums of Kenya.

3. There is established a body corporate to be known as the National Museums of Kenya with perpetual succession and a common seal and which shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;

- (c) borrowing money;
- (d) entering into contracts;
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

4. The National Museums shall—

Functions of National Museums.

- (a) serve as national repositories for things of scientific, cultural, technological and human interest;
- (b) serve as places where research and dissemination of knowledge in all fields of scientific, cultural, technological and human interest may be undertaken;
- (c) identify, protect, conserve and transmit the cultural and natural heritage of Kenya; and
- (d) promote cultural resources in the context of social and economic development.

5. (1) The National Museums may—

Powers of the National Museums.

- (a) purchase or exchange, take on lease, or acquire by gift or otherwise, movable or immovable property including an existing museum, for any purpose of or connected with the national museums;
- (b) sell, lease or exchange immovable property from time to time vested in the National Museums which is no longer, or not for the time being, required for any such purposes;
- (c) erect, maintain and improve buildings, including staff quarters, to be used for any such purpose;
- (d) mortgage or charge immovable property from time to time vested in the National Museums as security for repayment, with or without interest, of any money borrowed for the purposes of the National Museums;
- (e) appoint advisory committees for museums;
- (f) acquire by way of gift or purchase, or accept by way of loan or deposit, any object of scientific, cultural, technological, historical or human interest;

- (g) exchange, sell or otherwise dispose of objects not required for the purpose of the National Museums and lend objects vested in the National Museums to any person or institution whether within or outside Kenya:

Provided that no object which is accessioned and registered as part of the collection of a national museum shall be—

- (i) sold, given away, mortgaged, pledged or in anyway permanently disposed of save under authority of a resolution of the Board and with the consent in writing of the Minister; or
- (ii) lent to any person or organization, within or outside Kenya, unless under authority of a resolution of the Board and with the consent of the Minister;
- (h) with consent of the Minister form companies to take over or assist in any of the functions of the National Museums;
- (i) apply money received on the sale or disposal of movable property or by way of payment for admission to a museum or by way of gift or grant or otherwise, in the purchase of any object which in the opinion of the Board it is desirable to acquire for a national museum or in furthering interest in and increasing the utility in a national museum;
- (j) solicit and accept and receive subscriptions, donations, devices and bequests (whether of movable or immovable property and whether absolute or conditional) for the general or special purposes of a national museum or subject to any trust;
- (k) charge for admission to a national museum, or to any lecture, exhibit, conducted tour, course of instruction or other facility, or for publications, such fees or prices as the National Museums may, subject to any regulations made under this Act, think fit;
- (l) borrow, with or without security, such moneys as may from time to time be needed for any purposes of the National Museums;
- (m) in consultation with the National Council for Science and Technology, maintain existing research institutions and establish new ones;

- (n) subject to the provisions of the Environmental Management and Co-ordination Act, conduct environmental impact assessments;
- (o) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in the furtherance of the purposes for which the National Museums is established;
- (p) open a bank account or bank accounts for the funds of the National Museums;
- (q) do all such other lawful things as may seem to the National Museums to be incidental or conducive to the attainment of any of the functions of the National Museums.

No. 8 of 1999.

(2) The National Museums may receive moneys from any source and may apply those moneys to defray its expenses in carrying out the functions and exercising the powers conferred on it by this Act including the reimbursement of expenses incurred by members of the Board in attending meetings of the Board.

6. (1) There is established a Board of Directors of the National Museums of Kenya which shall be the governing body of the National Museums and shall consist of the following members:

Board of Directors.

- (a) a chairman appointed by the Minister after consultation with the President;
- (b) four persons representing scientific interests appointed by the Minister of whom one shall be nominated by Nature Kenya, one by the University of Nairobi, one from one other university and one from the National Council for Science and Technology;
- (c) the Permanent Secretary in the Ministry for the time being responsible for national heritage;
- (d) the Permanent Secretary in the Ministry for the time being responsible for finance;
- (e) the Permanent Secretary in the Ministry for the time being responsible for defence;
- (f) not more than three persons to be appointed by the Minister by virtue of their outstanding interest in and contribution to the work of national museums;

- (g) one person appointed by the Minister from the private sector;
- (h) one person appointed by the Minister upon nomination by the Kenya Tourist Board;
- (i) a Director-General appointed by the Minister after consultation with the Board who shall be an *ex-officio* member and secretary to the Board.

(2) The Board shall elect a vice-chairman from among its members.

(3) The Board shall have the general management, development and control of the National Museums and all functions vested in the National Museums by this Act.

Tenure of office.

7. (1) The Chairman or a member of the Board other than an *ex-officio* member shall hold office for a period of three years and shall be eligible for re-appointment.

(2) The quorum of the Board shall be seven members excluding the *ex-officio* members.

(3) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(4) A member of the Board, other than an *ex-officio* member, may resign his office by notice in writing under his hand addressed to the Minister.

Termination of appointment of the chairman and members of the Board.

8. The appointment of the chairman or member of the Board may be terminated by the Minister, if the chairman or member—

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (c) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (d) is, without reasonable cause, absent from three consecutive meetings of the Board; or
- (e) is otherwise unfit or unable to discharge his function.

9. (1) The Chairman or a member of the Board who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Board.

Disclosure of interest by chairman and members of the Board.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting of the Board and the chairman or member shall not take part in the consideration or discussion of or vote during any deliberations on the matter by the Board.

10. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule, but subject thereto, the Board may regulate its own procedure.

Meetings of the Board.

(2) The Board may co-opt any person to participate in its deliberations on any particular issue, but a person so co-opted shall have no right to vote at any meeting of the Board.

11. The Board may, by resolution generally or in any particular case, delegate to any committee of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

Delegation by the Board.

12. Subject to section 13, no matter or thing done by a member of the Board or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers and duties of the Board under this Act, render the member, or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection of personal liability.

13. The provisions of section 12 shall not relieve the Board of the liability in tort or contract, to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act, or any other written law.

Liability of the Board in Contract and tort.

14. (1) There shall be a Director-General of the National Museums, who shall be appointed by the Minister on the recommendation of the Board on terms and conditions specified in the instrument of his appointment.

The Director-General.

(2) The Director-General shall hold the minimum of a doctorate and have experience in any field or discipline relating to the work of the National Museums.

(3) The Director-General shall be the chief executive officer of the National Museums and shall be responsible to the Board for the day to day management of the National Museums.

Staff.

15. The Board may appoint such officers and staff as are necessary for the proper discharge of the functions of the National Museums under this Act upon such terms and conditions of service as the Board may determine.

Appointment of advisory committees.

16. (1) The National Museums may appoint a separate advisory committee for any national museum or group of national museums.

(2) An advisory committee may include at least one person nominated by the local authority in whose jurisdiction the national museum is situated.

(3) Except as otherwise provided by any regulations made under this act, the National Museums may delegate to an advisory committee all or any of its powers and obligations under this Act in respect of the museums for which the committee has been appointed.

National Museums to undertake research, etc.

17. The National Museums may, as far as its financial and other resources permit, undertake research and conduct other activities of scientific, cultural technological or human interest by means of lectures, exhibits, tours or publications.

PART III—FINANCIAL PROVISIONS

Funds of the National Museums.

18. The funds of the National Museums shall comprise—

- (a) such monies as may be appropriated by Parliament for the purposes of the National Museums;
- (b) such monies as may accrue to or vest in the National Museums in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) all monies from any other source provided for donated or lent to the National Museums.

Financial year

19. The Financial Year of the National Museums shall be the period of twelve months ending on the thirtieth June in every year.

Annual Estimates.

20. (1) The Board shall before the commencement of a financial year cause to be prepared estimates of revenue and expenditure of the Board for that financial year.

(2) The annual estimates shall make provisions for all the estimated expenditure of the Board for the financial year concerned and in particular shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the National Museums;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the National Museums;
- (c) the proper maintenance of buildings and grounds of the National Museums;
- (d) the funding of training, research and development activities of the National Museums;
- (e) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the National Museums;
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

(4) No expenditure shall be incurred for the purposes of the National Museums except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board with the prior approval of the Minister.

21. The Board may invest any of the funds of the National Museums in securities in which for the time being trustees may by law invest funds or in any other securities which the Treasury may from time to time approve for that purpose.

Investment of funds.

22. The National Museums may not grant to a member of the Board or staff any loan or advance, or arrange any credit facility for the member except with regulations made by it under this section and approved by the Treasury.

Restriction on loans to Board member and staff.

23. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities

Accounts and audit.

of the National Museums.

(2) The Board shall within three months from the end of the financial year submit to the Controller and Auditor-General or an auditor appointed under subsection (3), the accounts of the National Museums together with

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the National Museums on the last day of that year.

(3) The accounts of the National Museums shall be audited by the Controller and Auditor-General or by an auditor appointed by the Board with the written approval of the Controller and Auditor-General.

(4) The appointment of an auditor shall not be terminated by the Board without the prior written consent of the Controller and Auditor-General.

(5) The Controller and Auditor-General may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(6) An auditor appointed under subsection (3) shall report directly to the Controller and Auditor-General on any matter relating to the directions given under subsection (5).

(7) The Controller and Auditor-General shall within six months after the end of the financial year report on the examination and audit of the accounts of the National Museums to the Minister, and where an auditor has been appointed under subsection (3) he shall transmit a copy of the report to the Controller and Auditor-General.

(8) The fee payable to an auditor appointed under subsection (3) shall be fixed and paid by the Board.

(9) Nothing in this Act shall be construed to prohibit the Controller and Auditor-General from carrying out an inspection of the National Museums accounts or records whenever it appears to him desirable.

(10) Notwithstanding anything in this Act, the Controller and Auditor-General may transmit to the Minister a special report on any matters incidental to his power under this Act and the Public Audit Act, 2003.

24. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediate preceding year. Annual report.

(2) The Minister shall lay the annual report before the National Assembly within three months of the day the Assembly next sits after the report is presented to him.

PART IV—HERITAGE DECLARATIONS

25. (1) After consultation with the National Museums the Minister may by notice in the Gazette declare— Declaration of monuments, etc.

- (a) an open space to be a protected area within the meaning of this Act,
- (b) a specified place or immovable structure which the Minister considers to be of historical interest, and a specified area of land under or adjoining it which is in the Minister's opinion required for maintenance thereof, to be a monument within the meaning of this Act;
- (c) a specified site on which a buried monument or object or archaeological or palaeontological interest exists or is believed to exist, and a specified area of land adjoining it which is in the Minister's opinion required for maintenance thereof, to be a protected area within the meaning of this Act;
- (d) a specified object or type of object, whether or not part of an immovable structure, which the Minister considers to be of historical, cultural, or scientific interest, to be a protected object within the meaning of this Act;
- (e) a building and specified area of land adjoining it which in the Minister's opinion is required for the maintenance thereof to be a protected building within the meaning of this Act; or
- (f) a geopark to be a protected area within the meaning of this Act;

and the notice shall state that objections to a declaration made under this section shall be lodged with the Minister within two months from the date of publication of the notice.

(2) A copy of every notice published under subsection (1) shall, if referring to an immovable object or site, be posted by the National Museums in a conspicuous place, on or near that object or site or on the

area to which it relates, and if referring to a specified movable object, be delivered or sent to the person in whose possession that object is or is believed to be.

(3) On the expiration of the period of two months, the Minister, after considering the objections, if any, shall confirm or withdraw the notice.

(4) An object or area of land declared by or under the Preservation of Objects of Archaeological and Palaeontological Interest Act or under the Antiquities and Monuments Act (both now repealed) to be a protected object, monument or protected area shall be deemed to be a protected object, monument or protected area, as the case may be, within the meaning of this Act.

(5) No declaration made and gazetted by the Minister under this section may be revoked without the consent of the National Museums.

(6) Notice of the proposal for revocation shall be published in the gazette and the Minister shall consider all objections or recommendations made to the Minister within two months after the publication of the notice.

(7) Where it appears to the Director-General that any heritage which the Director-General considers requires to be protected by a declaration under this section is in imminent danger of serious damage or destruction, the Director-General may make an order protecting the said heritage in the manner set out by him.

(8) An order made under subsection (7) shall have effect in applying all the provisions of this Act including criminal penalties with immediate effect as if the notice had been given by the Minister and confirmed under subsection (3).

(9) Immediate notice of an order made subsection (7) shall be given to the Minister and the order shall be operative for one month, save that if a recommendation has in that time been made by the National Museums to the Minister for a declaration under subsection (1), the order shall be operative until the decision of the Minister.

Registers.

26. The National Museums shall maintain a register or registers or—

(a) all collections of all museums, and all instruments under its control;

(b) all declarations made or deemed to have been made by the Minister under this Act,

which register or registers the public may search.

PART V—SEARCHES AND DISCOVERIES

27. (1) Unless authorized by an exploration licence issued by the Minister after consultation with the Board, no person shall by means of excavation or surface operations search for a buried monument or buried part of a monument, or for a buried antiquity, whether or not in a protected area. Exploration licences.

(2) Before making recommendations to the Minister on the issuance of an exploration licence, the National Museums shall satisfy itself that the applicant is competent by both training and experience to carry out an exploration or excavation in accordance with the most recent scientific methods, and may require the applicant to satisfy it that he has the support, financial and otherwise, of an archaeological or scientific society or institution of repute.

(3) Every exploration licence issued under this section shall contain an agreement that the licensee, or the institution which the licensee represents, will, at such intervals or within such period as may be specified by that licence, produce a detailed written report or publication on the results of the exploration and excavation, and will deposit with the National Museums two copiers of the report or publication.

(4) An exploration licence may specify, in regard to the acts which it authorizes, such limitations and conditions as the Minister considers necessary:—

- (a) in order to protect a monument from injury, removal or dispersion;
- (b) in respect of antiquities for the removal of finds to a place in Kenya, or temporarily to a place outside Kenya for the purpose only a special examination or preservative treatment.

28. An exploration licence—

- (a) shall be valid for a period not exceeding one year, but may be renewed for a further period or further periods not exceeding one year at a time;
- (b) may be revoked at any time if the Minister is of the opinion

Conditions and forms of exploration licence.

that the holder thereof has failed to conform with any of his express or implied obligations thereunder;

(c) shall be in the prescribed form; and

(d) shall not entitle the holder thereof to enter upon any land without the consent of the owner thereof, otherwise than as provided by section 29.

Entry on to land
under exploration
licence.

29. (1) For the purposes of an exploration licence, the holder thereof may enter upon any area of land specified in the licence, whether or not private land, and whether or not a protected area, and exercise there all rights conferred by the exploration licence, for such period and subject to such limitations and conditions as may be stated in the licence.

(2) Where the holder of an exploration licence intends, pursuant to any licence, to enter upon private land, the holder shall give not less than seven days' notice to the occupier, and if practicable to the owner of the land.

(3) In the case of Trust land service on the county council in which the land is vested of a written notice, specifying the exploration licence and the nature and duration of, and the land affected by it, shall be sufficient notice of all subsequent activities in accordance with the exploration licence, both to the county council and to the residents for whose benefit the council holds the land.

(4) Whenever, in the course of operations carried on by the holder of an exploration licence, disturbance of the rights of the owner or occupier of private land, or damage to the land, or to crops, trees, buildings, stock or works therein or thereon, is caused, the holder of an exploration licence shall be liable to pay or make to the owner or occupier such compensation as is fair and reasonable having regard to the extent of the disturbance or damage and to the interest of the owner or occupier in the land.

(5) If the holder of an exploration licence fails to pay or make compensation when demanded under subsection (4), or if an owner or occupier is dissatisfied with the amount or nature or any compensation offered to him thereunder, the owner or occupier may, within six months of the date on which the demand or offer is made, but not in any case later than two years after the occurrence of the disturbance or damage, appeal to the Minister whose decision shall be final.

(6) In the case of disturbance of the rights of occupiers of Trust land, or damage to any such land—

- (a) an occupier who claims to be entitled to compensation under subsection (4) shall, within six months after the occurrence of the disturbance or damage, apply to the District Commissioner of the district in which the land is situated;
- (b) the District Commissioner shall notify the Minister and the holder of the exploration licence of the application made under paragraph (a);
- (c) the Minister shall appoint a panel of three persons under the chairmanship of the District Commissioner, which shall afford the owner or occupier a reasonable opportunity of being heard in relation thereto, and if satisfied that the applicant is entitled to compensation, shall make an award in his favour in accordance with subsection (4);
- (d) the panel shall give notice in writing to the applicant and to the holder of the exploration licence of the award or of the rejection of the award;
- (e) the applicant or the holder of an exploration licence may appeal to the Minister against the decision of the panel under paragraph (d) and the Minister's decision shall be final;
- (f) a sum payable under an award shall be deposited by the holder of the exploration licence with the District Commissioner upon the expiry of thirty days from notification of the award or from a final appeal decision, as the case may be;
- (g) the District Commissioner shall be responsible for paying the compensation awarded to the person entitled thereto, and every such payment shall be made in a single payment;
- (h) an award made under this subsection shall be enforceable as if it were a decree of a competent court.

30. Where a person discovers a monument or object of archaeological or palaeontological interest, the person shall, within seven days, give notice thereof, indicating the precise site and circumstances of the discovery, to the National Museums, and in the case of an object, shall deliver the object to the National Museums or to the District Commissioner to keep it for any particular purpose or for any particular purpose or for any particular period.

Notification of discovery.

31. Subjects to section 27, no person shall move a monument or object of archaeological or palaeontological interest from the place where it has been discovered otherwise than in such manner and to such place

Restriction on moving objects.

as may be allowed by an exploration licence, or by written permit from the Minister after consultation with the National Museums.

Offences.

32. A person who—

- (a) engages in search contrary to section 27;
- (b) being the holder of an exploration licence, fails to conform with any of the Minister's express or implied obligations under the licence;
- (c) enters upon private land pursuant to the licence without having given previous notice and such security, if any, as may have been directed in accordance with section 29;
- (d) fails to comply with the provisions of section 30; or
- (e) moves a monument or object of archaeological or palaeontological interest contrary to section 31,

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART VI—PROTECTED AREAS

Where protected area is Trust land.

33. A protected area or part thereof which is an area of Trust land may be set aside as such in accordance with the provisions of section 118 of the Constitution.

Control of access etc to protected area.

34. The Minister may, in respect of a protected area, from time to time—

- (a) by notice in the Gazette, prohibit or restrict access thereto or any development thereof, or the use thereof for agriculture or livestock, or activity thereon which in the Minister's opinion is liable to damage a monument or object of archaeological or palaeontological interest therein;
- (b) place the protected areas under the control of the National Museums, on such terms and with and subject to such powers and duties as he may direct;
- (c) take, or authorize the National Museums to take, such steps as are in the Minister's opinion necessary or desirable for the maintenance thereof;

- (d) make or authorize the National Museums to make by-laws for controlling access thereto, with or without payment, and the conduct therein of visitors thereto.

35. (1) Where private land is included in a protected area, and the development or other use of that land by the owner or occupier thereof is prohibited or restricted by the Minister, or, by reason of any steps taken by the Minister, or by the Board with the authority of the Minister, on or in relation to the private land, the rights of the owner or occupier are disturbed in any way, or damage to the land, or to crops, trees, buildings, stock or works therein or thereon is caused, the Government shall on demand pay to the owner or occupier such compensation as is fair and reasonable having regard to the extent of the prohibition, restriction, disturbance or damage and to the interest of the owner or occupier in the land.

Compensation to owner of land in protected area.

(2) The provisions of subsections (4) and (5) of section 29 shall apply *mutatis mutandis* to a claim for compensation under this section.

36. A person who—

Offences.

- (a) enters upon a protected area or does therein any act or thing contrary to a prohibition or restriction of which notice has been given by the Minister under section 34 (a); or
- (b) commits a breach of any-law made by the Minister or by the National Museums under section 34 (d),

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART VII—MONUMENTS

37. A heritage warden, or any other person authorized in writing by the National Museums, may at any reasonable time—

Inspection and repair of monuments.

- (a) enter and inspect a monument; or
- (b) make photographs, measurements, drawings or other records of particulars of a monument; or
- (c) if so required by the National Museums carry out, at the expense of the National Museums, repairs to a monument:

Provided that where a monument is inhabited, not less than one month's previous notice in writing shall be given to the occupier of the intention to carry out repairs thereto.

Acquisition of monuments and antiquities.

38. The National Museums may purchase or take on lease or accept a gift or bequest of a monument or antiquity.

Guardianship of Monuments.

39. (1) The owner of a monument may, by written instrument, constitute the National Museums the guardian of the monument, if the National Museums agrees.

(2) The National Museums shall be the guardian of any monument which is the property of the Government or has no apparent owner.

(3) An instrument which constitutes the National Museums the guardian of a monument shall provide for the matters mentioned in section 40 (2) as if it were an agreement under that section.

Agreements for protection or preservation of monuments.

40. (1) The National Museums may enter into a written agreement with the owner of a monument and any other person or persons for the protection or preservation of the monument.

(2) An agreement under this section may provide for all or any of the following matters—

- (a) the maintenance of the monument;
- (b) the custody of the monument and the duties of any person who may be employed in connexion therewith;
- (c) the occupation or use of the monument by the owner or otherwise;
- (d) the restriction of the right of the owner or occupier to build or to do other acts or things on or near the site of the monument;
- (e) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the National Museum to inspect or maintain the monument;
- (f) the notice to be given to the National Museum in case the owner intends to offer the land on which the monument is situated for sale, lease or other disposal thereof, and the right to be reserved to the National Museum to have first refusal of any such sale, lease or other disposal;
- (g) the payment of any expenses incurred by the owner or by the National Museums in connection with maintenance of the monument;

- (h) the removal of the monument or any part thereof, subject to the provisions of this Act, to a place of safe custody;
- (i) the duration of the agreement, with provision for earlier termination thereof by any party thereto;
- (j) the procedure relating to the settlement of any dispute arising out of the agreement; and
- (k) any other matter connected with the protection or preservation of the monument which is a proper subject of agreement between the owner and the National Museum;

(3) The terms of an agreement under this section may be altered from time to time with the consent of all parties thereto.

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

(5) Any rights acquired by the National Museums or by the owner in respect of expenses incurred in maintenance shall not be affected by the termination of an agreement under this section.

41. (1) If the owner or any other person who is bound by the terms of an instrument which constitutes the National Museums guardian of a monument under section 39 (3) or of an agreement for the protection and preservation of a monument under section 40 refuses to do an act which is in the opinion of the National Museums is both necessary for the protection, preservation or maintenance of the monument and the responsibility of the owner or other person in accordance with the terms of the instrument or agreement, or neglects to do the act within such reasonable time as may be fixed by the National Museums, the National Museums may authorize any person to do that act and the expense thereof, if and so far as it is established to have been the responsibility of the owner or other person, shall be recoverable from him.

Enforcement of agreements for protection of monuments.

(2) If the National Museums establishes that the owner or occupier of a monument which is the subject of any such instrument or agreement intends to build or to do any other act or thing in contravention of the terms of the instrument or agreement, the High Court may grant an injunction to restrain that building or other act or thing.

42. If the Minister considers that a monument is in danger of being destroyed, injured or allowed to fall into decay, he may acquire the monument by way of compulsory purchase under the provisions

Compulsory purchase of monuments. Cap. 295.

of the Land Acquisition Act but that power shall not be exercised—

- (a) in the case of a monument which, or any part of which, is periodically used for religious observances;
- (b) so long as the monument is under the guardianship of the National Museums as provided by section 39 or the subject of an agreement for its protection and preservation as provided by section 40; and
- (c) if the owner of the monument is willing to constitute the National Museums guardian thereof as provided by section 39 or to enter into an agreement for its protection as provided by section 40 or to give, sell or lease to the Government or the National Museums the monuments on acceptable terms, and has executed the necessary instrument or agreement for that purpose within two months after being invited so to do.

Duties of National Museums to protect and maintain monuments.

43. (1) A monument which is for the time being owned by the National Museums, or under the guardianship of the National Museums as provided by section 39, or the subject of an agreement for its protection or preservation as provided by section 40, shall be properly maintained by the National Museums, except so far as its maintenance is, by such guardianship or agreement the responsibility of the owner of the monument or of any other person.

(2) The National Museums may enforce all obligation of the owner of the monument or of any other person to maintain it.

(3) When any such monument or any part thereof is used periodically for religious observances, the National Museums shall make due provisions for the protection of the monument from pollution or desecration—

- (a) by prohibiting entry therein, except in accordance with by-laws made with the concurrence of the persons in religious charge of the monument or part thereof, of any person not entitled so to enter by the religious usage of the sect or community by which the monument or part thereof is used; or
- (b) by taking such other action the National Museum deems necessary.

(4) Subject only to any by-laws made under subsection (3) in respect of a monument or part thereof used for religious observances, and to the terms of any instrument whereby the National Museums has been constituted guardian or of any agreement for protection or

preservation of a monument, the public shall have right of access to a monument referred to in subsection (1) on such conditions as regards payment, if any, and otherwise as the National Museums approves.

44. Subject to the conditions of any instrument or other transactions, the National Museums may—

Power of National Museums to relinquish rights over monuments.

- (a) where rights have been acquired by it in respect of a monument by virtue of a sale, lease, gift or bequest, relinquish those rights in favour of the person who would for the time being be the owner of the monument if those rights had not been acquired; or
- (b) relinquish any guardianship which the Board has accepted under the provisions of this Act.

45. (1) A person who—

Offences.

- (a) destroys, removes, injures, alters or defaces or does any act that imperils the preservation of a monument;
- (b) obstructs the exercise by a heritage warden or other duly authorized person of any of the powers conferred by section 37; or
- (c) commits a breach of any by-laws regulating the entry of persons into a monument which is used for religious observances, or of any other condition of access to a monument,

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment, and on conviction of an offence against paragraph (a) may be ordered by the convicting court to pay to the National Museums for the purpose of making good any damage caused by that offence such sum of money as may be found by that court to be necessary to defray the cost thereof.

(2) In the event of any threatened or continuing act contrary to subsection (1) (a) the High Court may on the application of the National Museums grant an injunction to restrain such act or its continuance.

PART VIII—ANTIQUITIES AND PROTECTED OBJECTS

46. (1) All antiquities which are lying in or under the ground, or on the surface of any land already protected under any law as a monument or being objects of archaeological, palaeontological or cultural interest

Antiquities property of Government.

are discovered in a part of Kenya after the commencement of this Act, shall be the property of the Government.

(2) The Minister may, on the recommendation of the National Museums, by notice in the Gazette, disclaim the ownership of any such antiquity.

Information
Concerning
Antiquities and
protected objects.

47. A person shall, if so required in writing by the National Museums, within such period, not being less than one month as may be specified by the notice, furnish the National Museums with full particulars of all objects in the person's possession which the person knows or has reason to believe to be antiquities or protected objects.

Prohibition of
removal of antiquities
and protected objects.

48. The Minister may after consultation with the National Museums, by notice in the Gazette, prohibit removal, without a permit from the Minister, of a specified antiquity or protected object, or of a specified class or type thereof respectively, from the place where the antiquity or protected object or class or type thereof is then situated.

Prohibition of sales,
etc., of antiquities
and protected objects.

49. (1) No person shall, without a permit from the Minister, sell or otherwise part with ownership or possession of a protected object.

(2) No person shall buy or take by way of exchange an antiquity unless he has been licenced by the Minister in consultation with the National Museums to deal in antiquities.

(3) No person shall sell or give by way of exchange an antiquity to a person who has not been licenced by the Minister in consultation with the National Museums to deal in antiquities.

(4) The provisions of this section do not apply to acquisition by the Government or by the National Museums of a protected object or antiquity by way of sale, exchange, gift, bequest or loan.

Compulsory
acquisition of
antiquities and
protected objects.

50. (1) If the Minister considers that an antiquity or protected object is in danger of being destroyed, injured or allowed to fall into decay, or of being unlawfully removed, the Minister may after consultation with the National Museums acquire the antiquity or protected object by way of compulsory purchase, on the grounds that acquisition is necessary in the interests of the utilization of the antiquity or protected object by preservation and display for the public benefit, subject to the prompt payment of full compensation as provided by section 75 of the Constitution.

(2) The power of compulsory acquisition under subsection (1) shall not be exercised if the owner of the antiquity or protected object is willing to deposit it with the National Museums by way of loan either

permanently or for such period as the Minister deems necessary, and has executed the necessary agreement for that purpose within one month after being invited so to do.

51. A person who—

Offences.

- (a) without just cause fails to furnish the National Museums with full particulars of all objects in his possession which he knows or believes to be antiquities or protected objects, after being required in writing so to do within the period lawfully specified by a notice, as provided under section 47;
- (b) willfully destroys or damages an antiquity or protected object;
- (c) removes an antiquity or protected object contrary to section 48; or
- (d) sells or otherwise parts with ownership or possession of a protected object, or sells or buys or gives or takes by way of exchange an antiquity, contrary to section 49,

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or twice the value of the antiquity or protected object concerned, whichever is the greater, or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART IX—EXPORT

52. (1) No monument or part thereof, nor any antiquity or protected object may be removed from Kenya unless its removal has been specially authorized by a provision in an exploration licence, or by an export permit issued by the Minister on the recommendation of the National Museums under this section.

Conditions relating to export.

(2) An application for an export permit shall be made in writing to the Minister, and shall contain a full description of the monument or part thereof, or antiquity or protected object in respect of which it is made, the reason for the proposed removal, the place to which and the person into whose care it is to be removed, and such further information as may be prescribed.

(3) Before issuing an export permit the Minister may cause an inspection to be made, and the monument antiquity or protected object to be sealed or placed in his custody.

(4) The Minister may issue an export permit subject to such terms and conditions as the Minister may deem fit, or may, without assigning any reason, refuse to issue any export permit in respect of a specified monument or part thereof, an antiquity, or a protected object.

(5) An export permit may in particular be made subject to all or any of the conditions that—

- (a) the subject-matter thereof shall be deposited in a specified place and in the care of specified persons;
- (b) the subject-matter thereof shall be returned to Kenya within a specific period; and
- (c) a specified portion of the subject-matter thereof shall be surrendered to the National Museums, or be deposited with the National Museums by way of loan permanently or for a specified period.

Notice to Minister to acquire by compulsory purchase.

53. (1) In the event of the Minister's refusal to issue an export permit for an object of historical value, or imposing conditions which the owner does not accept, the owner may by notice to the Minister within three months thereafter require the Minister, as an alternative to issuing an export licence, to acquire the object by way of compulsory purchase as provided by section 42.

(2) The Minister shall, within six months after receipt of a notice under this section, either grant an unconditional export licence in respect of the object or proceed without undue delay to acquire it by way of compulsory purchase.

Export through Customs port of entry.

54. No monument or part thereof, antiquity or protected object shall be removed from Kenya otherwise than through a Customs port of entry; and the relevant export permit, or a copy of the relevant exploration licence certified by or on behalf of the Minister of the National Museums, as the case may be, shall be surrendered to a Customs officer before removal from Kenya is effected or allowed.

Offences.

55. A person who—

- (a) removes a monument or part thereof, an antiquity, or a protected object, from Kenya contrary to section 52 or section 54;
- (b) fails to comply with any of the terms of conditions of an export permit; or

- (c) obtains an export permit by an application containing information which the person knows to be false or incomplete in any material particular,

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART X—POWERS OF ENFORCEMENT

56. (1) An authorized representative of the National Museums may at any time inspect work being done in connexion with a monument or object of archeological or palaeontological interest, and may for that purpose without warrant enter any premises, and may order the cessation of any such work pending further order from the National Museums.

Inspection by the National Museums.

(2) The National Museums shall report to the Minister any such order for cessation of work and the reasons for the order.

57. (1) The Minister may by notice in the Gazette appoint persons recommended by the National Museums to be heritage wardens for the purpose of enforcing this Act.

Heritage wardens.

(2) A heritage warden appointed under subsection (1) may, with leave of the Attorney-General be appointed prosecutor for purposes of prosecuting offences committed under this Act.

58. A heritage warden may at any reasonable time inspect an antiquity or protected object which is the subject of a notice under section 48, and may for that purpose with written authority from the National Museums enter premises, where the antiquity or protected object is or should be, and require the production of the antiquity or protected object or information as to its whereabouts.

Power of heritage wardens to inspect.

59. A police officer or heritage warden may—

Power of arrest.

- (a) require any person whom the heritage warden has reason to believe has committed an offence under this Act to supply his name and address and reasonable evidence of his identity, and may without warrant arrest a person who refuses to comply with those requirements; and
- (b) upon obtaining a warrant, at any time search any person or the premises occupied by any person whom he reasonably suspects of having acquired ownership or possession of a protected object, or of having bought or taken by way of exchange an antiquity, contrary to section 49, and seize

anything which has been so acquired, bought or taken by way of exchange, together with any container thereof.

Power of
customs officers.

60. A customs officer may at any time without warrant search anything intended to be removed from Kenya, or any person intending to leave Kenya, if the officer reasonably suspects that thing or person of containing or carrying a monument or part thereof, or an antiquity or protected object, and seize anything which the officer believes to be a monument or part thereof or antiquity or protected object that is in process of being removed from Kenya contrary to section 52 or section 54, together with any container thereof.

Forfeiture to
Government after
seizure.

61. (1) Anything seized under section 59 or section 60 shall as soon as possible be taken before a magistrate who—

(a) in respect of seizure under section 59, shall order forfeiture to the Government of the thing seized together with any container thereof if it is established that the thing seized is a protected object the ownership or possession of which has been acquired, or an antiquity that has been bought or taken by way of exchange, contrary to section 49; and

(b) in respect of seizure under section 60, shall order forfeiture to the Government of the thing seized together with any container thereof if it is established that the thing seized is a monument or part thereof, an antiquity or protected object that was in the process of being removed from Kenya contrary to section 52 or section 54,

whether or not the magistrate also convicts any person of an offence committed under this Act in relation to the same thing and imposes on that person any other penalty.

(2) Anything forfeited to the Government under subsection (1) shall, unless the Minister sees fit to restore it to its owner, be deposited with the National Museums.

Notices.

62. The National Museums may attach to or erect on a monument or protected area such notice or notices as it deems necessary for the better protection of the monument or protected area.

Offences.

63. A person who —

(a) obstructs an authorized representative of the National Museums, a police officer, heritage warden, or Customs officer, in the exercise of his powers or duties under this Act;

- (b) fails without reasonable cause to comply with a lawful order or requirement of an authorized representative of the National Museums, a police officer, heritage warden, or Customs officer, under this Act; or
- (c) destroys, removes or damages a notice attached or erected by the National Museums in exercise of the power conferred by section 62,

commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART XI—GENERAL

64. In any proceedings under this Act, where the Minister has certified in writing that in his opinion, on the advice of the National Museums, a thing is a monument, an object of archeological or palaeontological interest, an object of historical interest or a protected object, as the case may be, the burden of proof shall lie upon any person who asserts the contrary.

Burden of proof.

65. An instrument or agreement executed under this Act shall be exempt from stamp duty chargeable under the Stamp Duty Act.

Exemption from Stamp duty. Cap. 480.

66. After consultation with the Board, the Minister may make rules for carrying out any of the purposes of this Act, and without prejudice to the generality of the foregoing for all or any of the following purposes—

Rules.

- (a) prescribing conditions for the preservation and use of open spaces which may prescribe different conditions for different open spaces;
- (b) prescribing conditions for the protection, preservation and alteration of national monuments;
- (c) prescribing conditions for the protection, preservation, alteration and access to and use of protected buildings including the manner in which application may be made and consent given for any alteration, internal or external, to such protected buildings;
- (d) prescribing conditions for the protection, preservation, alteration and access to and use of areas of natural heritage;
- (e) prescribing the forms of, and conditions to be implied in exploration licences and export permits;

- (f) regulating the management of a protected area;
- (g) controlling the reproduction of objects of archaeological or palaeontological interest;
- (h) licensing dealers in antiquities;
- (i) prescribing penalties for breach of any such rules;
- (j) prescribing the fees to be charged under this Act.

Licensing of
museums.

67. (1) No person shall operate a museum except in accordance with a licence granted by the Minister, which shall be subject to such terms and conditions as the Minister may think fit.

(2) An application for a licence in respect of an existing museum shall be made within six months of the coming into operation of this Act.

Regulations.

68. The Minister may, on the advice of the National Museums, make Regulations—

- (a) providing for the administration of any National Museum or for any separate activity engaged in under this Act;
- (b) providing for the preservation of objects required for the purpose of any National Museum;
- (c) regulating the conditions for the admission of members of the public to any National Museum; or
- (d) generally for the carrying out of the objects and purposes of this Act.

Transitional
provision.

69. Upon the commencement of this Act, all the property, assets, rights and liabilities, obligations and agreements (including any contracts or employment) vested in, acquired, incurred or entered into by or on behalf of the National Museums Board of Governors, shall be deemed to be vested in or to have been acquired, incurred or entered into by or on behalf of the National Museums, and accordingly every such right, liability, obligation or agreement may be enforced by or against the National Museums to the same extent as it could have been enforced by or against the National Museums Board of Governors.

Repeals.
Cap. 215.
Cap. 216.

70. The Antiquities and Monuments Act and the National Museums Act are hereby repealed.

PART XII—MISCELLANEOUS

- 71.** Section 23 of the Copyright Act is amended by adding thereto the following new subsection immediately after subsection (4);
- Amendment to section 23 to Act No. 12 of 2001.
- (5) Notwithstanding anything else contained in this Act copyright in works eligible for copyright and vested in the National Museums Board of Directors or the National Museums is conferred in perpetuity on the National Museums.
- 72.** Section 145 of the Local Government Act is amended by deleting paragraph (y) and substituting therefor the following new paragraph—
- Amendment to section 145 to Cap. 265.
- (y) subject to the provisions of the National Museums and Heritage Act, 2006, establish and maintain public monuments.
- 73.** Section 201 of the Local Government Act is amended by adding the following new subsection immediately after subsection (4)
- Amendment to section 201 of Cap. 265.
- (5) By-laws which affect any cultural or natural heritage declared or deemed to have been declared as such by the Minister may only be made after consultation with the National Museums of Kenya.
- 74.** Section 7 (1) of the Mining Act is amended by adding the following new paragraph immediately after paragraph (k)—
- Amendment to section 7 of Cap. 306.
- (kk) any land in or within one hundred metres of any monument or protected area declared or deemed to have been declared as such by the Minister under the National Museums and Heritage Act.
- 75.** Section 17 (1) of the Registration of Business Names Act is amended by adding the following paragraph immediately after paragraph (c)
- Amendment to section 17 of Cap. 499.
- (cc) which includes the words “Old Law Courts Mombasa” “National Monument” “Lamu Fort” “Nairobi Botanical Gardens” “Nairobi Snake Park” “National Museum” “Fort Jesus” or “Karen Blixen”.
- 76.** Section 47 of the Physical Planning Act is amended—
- Amendment of section 47 of Act No. 6 of 1996.
- (a) by deleting the phrase “the Antiquities and Monuments Act” wherever it appears and substituting therefor the phrase “National Museums and Heritage Act”;

(b) by adding the following new subsection immediately after subsection (2)—

(3) All regional and development plans shall take into account and record all heritage declared or deemed to have been declared by the Minister under the National Museums and Heritage Act.

Amendment to section 38 of Act No. 8 of 1999.

77. Section 38 of the Environmental Management and Co-ordination Act is amended by inserting the following new paragraph immediately after paragraph (j)

(jj) take into account and record all monuments and protected areas declared or deemed to have been declared by the Minister under the National Museums and Heritage Act.

Amendment to section 116 of Cap. 280.

78. Section 116 of the Government Lands Act is amended in subsection (1A) by adding to the following words immediately after the word “absolutely”

and shall lodge a non-absolute caveat over any property in respect of which he is informed by the National Museums of Kenya that a declaration by the Minister under the National Museums and Heritage Act has been applied for, or is about to be gazetted or has been gazetted affecting the property in question; and upon gazettelement the caveat takes effect as a charge over the land.

Amendment to section 65 of Cap. 281.

79. Section 65 of the Registration of Titles Act is amended in paragraph (i) (f) by adding the following words immediately after the word “absolutely”—

“and shall lodge a non-absolute caveat over any property in respect of which he is informed by the National Museums of Kenya that a declaration by the Minister under the National Museums and Heritage Act has been applied for, or is about to be gazetted or has been gazetted affecting the property in question and upon gazettelement the caveat takes effect as a charge over the land”.

Amendment of section 72 of Cap. 282.

80. Section 172 of the Land Titles Act is amended in subsection (1A) by adding the following words immediately after the word “absolutely”—

“and shall lodge a non-absolute caveat over any property in respect of which he is informed by the National Museums

Board of Directors that a declaration by the Minister under the National Museums and Heritage Act has been applied for, or is about to be gazetted or has been gazetted affecting the property in question; upon gazettelement the caveat takes effect as a charge over the land.”

81. Section 136 of the Registered Land Act is amended by adding the following subsection immediately after subsection (3)—

Amendment to
section 136 of Cap.
300.

(4) The Registrar shall make a restriction expressed to endure until the making of a further order when the Registrar is informed by the National Museums of Kenya that a declaration of heritage by the Minister under the National Museums and Heritage Act has been applied for, or is about to be gazetted or has been gazetted affecting the property in question and upon gazettelement the restriction shall take effect as a charge over the land.

SCHEDULE

(sec. 10)

PROVISIONS AS TO THE CONDUCT OF THE AFFAIRS OF THE BOARD

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Notwithstanding subparagraph (1), the Director-General may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The chairman shall preside at every meeting of the Board at which he is present but in his absence, the vice-chairman shall preside and shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(5) In the event of the absence of both the chairman and the vice-chairman, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairman or the vice-chairman or the person presiding shall have a casting vote.

(7) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

The common seal.

2. The affixing of the common seal of the Board shall be authenticated by the signature of the chairman and the Director-General and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the chairman and the Director-General:

Provided that the Board shall, in the absence of either the chairman or the Director-General in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the chairman or the Director-General.

Contracts and instruments.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

SUBSIDIARY LEGISLATION

THE NATIONAL MUSEUMS AND HERITAGE (PRIVATE MUSEUMS) (LICENSING) REGULATIONS, 2008

L.N. 65/2008.

1. These Regulations may be cited as the National Museums and Heritage (Private Museums) (Licensing) Regulations, 2008. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“recollection” means objects and materials of cultural, scientific, natural, biological, palaeontological or historic interest which are exhibited in a museum;

“museum” means a private museum

“private museum” means a privately owned museum other than a national museum, which is open to the public.

3. A licence for the operation of a museum shall be issued in accordance with the provisions of these Regulations. Requirement for Licence.

4. An application for a licence shall be made to the Minister in the form set out in the schedule. Application for Licence.

5. An application under Regulation 4 shall be in writing and shall provide evidence— Form of application.

(a) that the application has a facility which qualifies to be used as a museum within the meaning of the Act;

(b) that the applicant already has in his possession a substantial collection for exhibition;

(c) that the applicant is able to provide professional and authoritative expertise and advice in relation to the proposed activities of the museum to the public;

(d) of the tenure building in which the proposed museum is located; and

(e) the name and qualifications of the proposed curator for the museum.

6. (1) An application shall contain a description of the applicant’s existing collection, and the mode of acquisition thereof, whether by purchase or on loan. Acquisition and care of Collections.

(2) The applicant shall set out the museum’s proposed acquisition policy, which shall be subject to the approval of the Minister.

(3) An application shall provide adequate documentation setting out the proposed museum’s methods of storing, handling, and displaying of its collections.

[Subsidiary]

- Staff. 7. The applicant shall employ adequate staff, to fulfil the staff museum's mandate.
- Curator. 8. (1) An applicant shall have in his employment a professional curator, curator for purposes if managing the museum.
- (2) A curator shall have the following qualifications:—
- (a) relevant degree from a recognized university or specialized knowledge of the subjects covered by the museum; or
- (b) a diploma in museum studies from a recognized institution of learning or equivalent qualifications from an accredited institution of learning; and
- (c) relevant experience of the principles and practice of museum operations and management.
- Conservation. 9. An applicant shall demonstrate access to time professional conservation, advice for the maintenance of the museum.
- Security. 10. The applicant shall provide evidence that the museum has taken adequate steps to ensure the safety and security of the collection.
- Financial Management. 11. The applicant may be required to demonstrate that the museum has a sound financial basis by submitting—
- (a) its budget;
- (b) accounts for the previous two years; and
- (c) supporting documents for the long-term security of the museum building, including the tenure.
- Consideration by Minister. 12. In considering an application for a licence, the Minister shall have regard to—
- (a) the legal status of the applicant, including, in the case of a corporate person;
- (b) whether the items collected and exhibited in the proposed museum shall be alive or non-live;
- (c) whether the materials are secured in the long-term for the public benefit;
- (d) whether the applicant has formal arrangements to manage and exhibit the collection, and
- (e) whether the materials in the collection were acquired following the appropriate law.

[Subsidiary]

13. The Minister shall consider all applications made under these Regulations, and may— Action by Minister.

- (a) grant the licence without conditions;
- (b) grant the licence, subject to such conditions as he may consider appropriate;
- (c) direct that the premises in respect of which the application is made be modified in a specified manner and the application for the licence resubmitted; or
- (d) refuse the application, and shall in respect of paragraphs (a), (c) and (d) give reasons for his decision.

14. There shall be payable a fee of ten thousand shillings for the issuance and renewal of a licence under these regulations. Licence fees.

15. (1) A licence issued under these regulations shall be in the form set out in the Schedule, and shall indicate— Form of licence.

- (a) the name of the licensee;
- (b) the premises in respect of which it is issued;
- (c) the charges payable for the issuance and renewal of the licence.

(2) The licence shall be required to make a firm commitment in writing—

- (a) to adhere to such directions, if any, as the Minister may prescribe; and
- (b) to honour and protect the heritage represented in the licensed premises.

(3) A licence issued under these Regulations shall be valid for a period of one year, after which it shall be renewed.

16. (1) It shall be a condition of a licence issued under these regulations that the holder should maintain a register containing details of the collections exhibited in the museum. Register of collections.

(2) The register shall be maintained in such a way as to ensure that the museum shall at all times have records of all the specimens it is responsible for, and their exact location.

17. A license may be varied or cancelled by the Minister after giving three months' written notice to the holder thereof with reasons for such variation or cancellation and giving such holder an opportunity to make representations to the Minister regarding such notice: Variation or cancellation of licence.

[Subsidiary]

Provided that the Minister may with immediate effect and without notice cancel a licence where the holder breaches any of the conditions attached thereto.

Closure of Museum by licensee.

18. (1) A licensee shall where he intends to close down a licensed museum notify the Minister accordingly, specifying the manner in which he proposes to deal with the collection.

(2) The Minister may, in the interests of conservation of heritage, direct the Board to take over the management of any materials in a museum to which this regulation relates.

Appeals.

19. Any person who is aggrieved by a variation or cancellation of a licence under Regulation 17 may appeal to the High Court.

Inspection.

20. (1) All museums licensed under these Regulations shall be subject to inspection by teams of experts which the Minister may appoint from time to time.

(2) It shall be an offence for a licence-holder or his servant or agent to obstruct any person acting pursuant to paragraph (1) in the exercise of his powers of inspection under these Regulations.

Offences.

21. (1) Any person who—

- (a) gives false or incorrect information in an application made under these regulations; or
- (b) obstructs any person authorized by the Minister in the exercise of his functions under these Regulations, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

(2) The Minister may direct that any museum the licence in respect of which is found to have been issued on the basis of false or incorrect information be closed forthwith.

SCHEDULE

Form of Application for Licence to operate Private Museum (r. 4)

THE NATIONAL MUSEUMS AND HERITAGE ACT
(Cap. 216)

APPLICATION FOR LICENCE TO OPERATE PRIVATE MUSEUM

TO: MINISTER OF STATE FOR NATIONAL HERITAGE AND CULTURE

- 1. Name of Applicant
- Address
-
- 2. Professional qualifications
-

- 3. Number of staff employed
- 4. Qualifications of staff
- 5. Do yo have a full-time curator?
- 6. Name of premises to be registered
 Location (L.R. No., Physical Address)
 Situated in (Name of Town)
 Tenure
- 7. Visitors' facilities available
 (a)
 (b)
 (c)
 (d) State the contribution to National Heritage
 (e) How were the materials acquired?
 (i) Name and address of source of materials

 (ii) Country of Origin
 (f) Where the materials exhibited in country of Origin?

Form of Licence to operate Museum (r. 15)

THE NATIONAL MUSEUMS AND HERITAGE ACT
(Cap. 216)

LICENCE TO OPERATE A PRIVATE MUSEUM

This is to certify that (Name)
is hereby authorized to operate a private Museum at
.....
.....
in the name and style of

This Licence shall expire on the
.....*(Date)

[Subsidiary]

L. N. 116/2008.

**THE UHURU GARDENS HISTORICAL SITE
(CAR ENTRY) FEES RULES, 2008**

1. These Rules may be cited as the Uhuru Gardens Historical Site (Car Entry) Fees Rules, 2008.

2. The fees chargeable for entry of motor vehicles into Uhuru Gardens Historical Site shall be as indicated in the Schedule.

3. The fees in the Schedule to these Rules shall apply for all days, including public holidays.

SCHEDULE

<i>Historical Site</i>	<i>Entry</i>	<i>Entry fees</i>
Uhuru Gardens	All classes of motor vehicles	Ksh. 100

L. N. 127/2008.

**THE LOYANGALANI DESERT MUSEUM
(ADMISSION FEES) RULES, 2008**

1. These Rules may be cited as the Loyangalani Desert Museum (Admission Fees) Rules, 2008.

2. The fees chargeable for entry into Loyangalani Desert Museum shall be as indicated in the schedule.

3. The fees in the schedule to these Rules shall apply for all days, including public holidays.

SCHEDULE

	Class of Visitor	<i>Entrance Fees. (Ksh.)</i>
Non-Residents (outside East Africa).	For every person aged sixteen years and over	500
	For every child over three and below sixteen years	250
Non-Residents (within East Africa)	For every person aged sixteen years and over	400
	For every child over three years and below sixteen years	200
Residents	For every person aged sixteen years and over	100
	For every child over three years and below sixteen years	50

CONFIRMATION OF SITES AND MONUMENTS[Subsidiary]
L.N. 128/2008.

IN EXERCISE of the powers conferred by Section 25 (3) of the National Museums and Heritage Act, the Minister of State for National Heritage and Culture, confirms the monuments, protected areas and buildings set out in the Schedule, which he considers of historical and archaeological interest to be Sites and Monuments within the meaning of the Act.

SCHEDULE**RAILWAY HOUSE, LOWER HILL ROAD**

All that building known as Railway House, Lower Hill Road and the surrounding compound in L.R. No. 209/14647, Upper Hill, Nairobi City, in Nairobi Province.

LAND'S OFFICES, MOI AVENUE, NAIROBI

All that building known as Land's Offices, Moi Avenue and the surrounding compound in L.R. No. 209/12722, Central Business District, Nairobi City in Nairobi Province.

THE MANSE KIKUYU

All that building known as the Manse and the surrounding compound of approximately 80m. x 70 m. situated in Kikuyu, Kiambu District in Central Province.

COTTAGE, NANDI ROAD, KAREN

All that building known as the Cottage, Nandi Road 150 in L.R. No. 7336/18 situated in Miotoni, Karen, Nairobi City in Nairobi Province.

P.C.E.A. CHURCH OF THE TORCH, THOGOTO

All that building known as the P.C.E.A. Church of the Torch, Thogoto, Kikuyu and the surrounding compound in L.R. No. Dagoreti/Thogoto/1448, Kiambu District in Central Province.

WATSON SCOTT MEMORIAL CHURCH, KIKUYU

All that building known as the Watson Scott Memorial Church and the surrounding compound of approximately 63 m x 38 m. in L.R. No. Dagoreti/Thogoto/1448 situated in Kiambu District in Central Province.

KITAU MANDA SKYLINE

All that area covering the Kitau and Magrove Skyline of Manda, situated at Lamu World Heritage Site, Lamu District in Coast Province.

SIRI GURDWARA RAMGARHIA TEMPLE

All that building known as the Siri Gurdwara Ramgarhia Temple, situated off Sandifod Road, Landi Mawe Area within Railways Estate in Nairobi Province.

[Subsidiary]

KAYA CHITSANZE

All that area of forest and measuring approximately 104.5 hectares, also known as Chitsanze Sacred Grove located in Ziwani Sublocation, Golini Location, Matuga Division, Kwale District in Coast Province.

DEDAN KIMATHI STATUE

All that structure within the area of land measuring approximately 0.41146 Hectares, also known as the Dedan Kimathi Statue situated along the junction of Kimathi Street and Mama Ngina Street in Nairobi Province.

OLD EMBU PC'S HOUSE

All that building known as the Old Embu PC's House number HGI-Embu measuring approximately 70 m. x 80 m. situated about 50 m. from the new PC's residence within Embu Town, Embu District in Eastern Province.

OLD EMBU PC SERVANTS' QUARTERS

All that building known as the Old Embu PC servants' quarters situated in Embu Town, Embu District in Eastern Province.

OLD ARMOURY

All that building overgrown by a fig tree, known as the Old Armoury measuring approximately 6 feet and about 20 metres from the Old PC's House within Embu Town, Embu District in Eastern Province.

OLUCHIRI SACRED GROVE

All that forest patch measuring approximately 30 m. x 40 m. also known as Oluchiri Sacred Site situated in Ebusiekwe sub-location, West Bunyore Location, Lwanda Division, Vihiga District in Western Province.

ASUBWE SACRED GROVE

All that area of land measuring approximately one acre, also known as Asubwe Sacred Site, located in Ebusiekwe sub-location, West Bunyore Location, Lwanda Division, Vihiga District in Western Province.

KING GEORGE'S TOWER

All that structure known as the King George's Tower at the junction of Sudi Road and Kenyatta Avenue, Kakamega Town in Western Province.

NAIROBI CLUB

All that building known as the Nairobi Club situated along Ngong Road in Nairobi Province.

ICHAGAKI PARISH

All that building known as the Ichagaki Parish, situated along the Maragua-Ichagaki Road, Maragua District in Central Province.

BILDAD KAGGIA'S MAUSOLEUM

All that structure known as the Bildad Kaggia's Mausoleum situated in Kabati sub-location, Maragua District in Central Province.

PEPONI ROAD HOUSE NO. 21

All that area of land on which the building known as Peponi Road House No. 21 stands, being L.R. No. 187011/219, situated along Peponi Road in Westlands, Nairobi Province.

MAKHAN SINGH HOUSE

All that area of land together with the building thereon located in L.R. No. 209/2761 along Park Road, Ngara within Nairobi Province.

KAKAPELI ROCK SHELTER

All that rock art known as the Kakapeli Rock Shelter, situated in Kiboi area on the Southern slopes of Mt. Elgon, North Teso Location in Busia District.

HONOURABLE PAUL NGEI MAUSOLEUM

All that structure known as Hon. Paul Ngei's Mausoleum situated in Mbilini Sub-location, Kangundo Division, Machakos District in Eastern Province.

EL MOLO SHRINES

All the four Elmolo shrines namely: Marie, Orikala, Origaltite and Orisole known as the Gantes occupying an area measuring approximately one acre situated in Roto Island, Loyangalani Division in Marsabit District.

DESAI HOUSE, 2ND PARKLANDS AVENUE, NAIROBI

All that building known as Desai House, 2nd Parklands Avenue and the surrounding of about 1.7 acres, on L.R. No. 209/1916/6, Parklands, Nairobi City in Nairobi Province.

WESTMINSTER HOUSE

All that building on plot No. 209/900, known as the Westminster House, situated along Kenyatta Avenue, Nairobi City in Nairobi Province.

SHAFFI MOSQUE

All that building known as the Shaffi Mosque, on L.R. No. 209/6502, situated within Muthurwa Area, Railways Estate, Kamukunji Division in Nairobi Province.

[Subsidiary]

L.N. 35/2009.

**THE NATIONAL MUSEUMS AND HERITAGE (OPEN SPACES
AND AREAS OF NATIONAL HERITAGE) (PROTECTION
AND MANAGEMENT) RULES, 2009**

Citation.

1. These Rules may be cited as the National Museums (Open Spaces and Areas of National Heritage) (Protection and Management) Rules, 2009.

Application.

2. These Rules shall apply to all open spaces, protected areas, national monuments, protected buildings and areas of cultural, natural or national heritage declared as such by the Minister for the purposes of the Act.

Interpretation.

3. In these Rules, unless the context otherwise requires

“guardian” means a person appointed by the Minister under rules 4 to be the guardian of any protected area.

Appointment of
guardian.

4. (1) The Minister may, by notice in writing, upon the recommendation of the National Museums, appoint

(a) the National Museum;

(b) a person or body ordinarily responsible for the protected area;

(c) any other person who the Minister considers appropriate, to be a guardian for the purposes of these Rules.

(2) A person appointed to be a guardian shall be responsible for the maintenance and conservation of the protected area.

Dealing with
protected area.

5. A person shall not deal with a protected area except in the manner provided for under these Rules.

Access to the public.

6. Where a protected area is designed to be accessible to the public, the guardian of that area shall restrict access to the extent necessary to preserve its physical character and cultural value.

Prohibited activities
in a protected area.

7. No person shall, unless with the prior written authority of a guardian of a protected area

(a) bring or allow any animal to enter or stray;

(b) play games, climb any trees, shoot with guns or catapults or throw stones; or

(c) light any fire in or bring any fire, in a protected area.

Public conduct.

8. A person shall not engage in disorderly conduct in a protected area.

Littering.

9. A person shall not deposit paper, bottles or other refuse of any sort in a protected area.

[Subsidiary]

10. A person shall not pick any leaves, flowers, fruits or seeds, or break pull up or damage or deface any tree, shrub, flower grass, turf, fence, seat, notice board or name ticket of a tree or shrub in a protected area. Picking leaves seeds, etc.
11. A person shall enter or exit from a protected area through the designated points provided for entry or exit. Entrance and exit.
12. (1) A guardian of a protected area shall ensure that the protected area is as far as possible preserved in its condition at the time of declaration as a protected area by the Minister. Preservation.
- (2) Any existing trees, shrubs, plants and flowers shall be replaced with the species selected with regard to the preservation of the original character of the protected area.
13. A person shall not remove any permanent or moveable structures of any kind which have natural or historical significance and form part of a protected area from that area, unless the removal is essential for their conservation or restoration, and the person has obtained written permission of the Minister. Structure.
14. A person shall not undertake the construction of any infrastructure, including visitors' amenities, drainage works or car parks, in a protected area, in a manner that endangers the ecological equilibrium or alters the general appearance of the area. Construction in protected area.
15. A person shall not undertake any restoration or reconstruction work in a protected area unless that person has undertaken a prior research to ensure its scientific excavation and he has obtained prior written approval of the project by the National Museums. Restoration work.
16. The owner or guardian of a monument shall, in consultation with the National Museums carry out regular maintenance and repairs of the monument. Responsibility of owner or guardian.
17. The provisions of these Rules relating to the conservation and maintenance of protected areas shall apply *mutatis mutandis* to the conservation and maintenance of monuments. Rules to apply.
18. The owner or guardian of a monument shall when restoring or rehabilitating a monument, use the original or historically significant building materials and maintain the original architectural features. Restoration work.
19. (1) Where it is necessary to replace the original building materials or historic decorative details, the owner or guardian shall ensure that the alternative materials match those that are to be replaced in composition, design, colour, texture and other visible qualities. Replacement of materials.
- (2) A person who wishes to use alternative materials as described in paragraph (1) shall prior to the use seek and obtain the written permission of the National Museums.

[Subsidiary]

6. (1) A person who wishes to deal in antiquities shall make an application for a licence to the Minister in the prescribed form. Application.

(2) An application under paragraph (1) shall be accompanied by—

- (a) the prescribed fee;
- (b) sufficient evidence to show that the applicant is qualified under rule 5 to apply for a licence; and
- (c) a general description of the items the applicant intends to deal in.

7. (1) The Minister shall consider all applications submitted under these Rules and, if he is satisfied that the applicant is qualified under rule 5, approve the grant of a licence. Consideration of applications.

(2) In considering an application under paragraph (1), the Minister may enlist the advice and assistance of the National Museums or any other person who has the expertise in matters relating to antiquities.

(3) Where the Minister does not approve an application for the grant of a licence he shall, within fourteen days after such refusal, notify the applicant in writing, setting out the reasons for refusal.

8. (1) Unless earlier revoked, a licence shall be valid for a period of three years from the date of issue, and may be renewed upon application for renewal and payment of the prescribed fee. Duration of licence.

(2) Where an application for renewal is made before the expiry of an existing licence, the existing licence shall remain in force until the expiry thereof.

(3) Where an application for renewal is made after the expiry of an existing licence the same shall be considered as a fresh application and rule 6 shall apply accordingly.

9. (1) The Minister may suspend or cancel a licence if the dealer—

- (a) fails to comply with the terms and conditions specified in the licence;
- (b) breaches any of the provisions of the Act;
- (c) is found to have made a false or misleading statement to the Minister or to a public officer in his application for the grant of a licence; or
- (d) does any other thing which, in the opinion of the Minister makes him ineligible to hold the licence.

Suspension or cancellation of licence.

(2) The Minister shall within fourteen days of the cancellation or suspension of a licence, furnish the licensee with the reasons for the cancellation or suspension in writing.

[Subsidiary]

(3) A dealer whose licence has been suspended or cancelled shall cease dealing in antiquities and inform the Minister accordingly within a period of seven days, in which case the provisions of rule 15 shall apply.

Maintenance of records.

10. A dealer shall maintain accurate records relating to all the antiques offered for sale, tracing the progression from the source to the point of acquisition by himself to prove authenticity.

Obligations of dealer.

11. A dealer shall not—

- (a) deal in antiques other than in accordance with the terms and conditions of the licence; or
- (b) engage in antique trading under a licence under these Rules with a person who, to the dealer's knowledge, has not acquired the antiques lawfully, or is otherwise not entitled to deal in antiques under these Rules.

Inspection.

12. The Minister may, by notice in writing, upon the recommendations of the National Museums, appoint—

- (a) the National Museum; or
- (b) any other person who the Minister considers appropriate,

to inspect the premises of a dealer to confirm the authenticity of the antiquities offered for sale.

Exportation and importation of antiquities.

13. (1) A licence issued under these Rules may permit the dealer to export or import antiquities subject to such conditions as may be specified on the licence.

(2) A licence shall not exempt the dealer from the obligation to comply with the requirements of any other law relating to importation or exportation of goods.

Transfer of licence.

14. (1) A licence shall not be transferable except with the written approval of the Minister.

(2) An application for approval under paragraph (1) shall be made to the Minister in the manner set out in rule 6 and the applicant shall state the intention to transfer and identify the proposed transferee.

(3) The licensee shall ensure that the proposed transferee is a person who would be eligible for the grant of a licence under these Rules.

(4) An application under this rule shall be made within a period of two months before the date of the proposed transfer.

Closure of dealership.

15. (1) A licensee shall, where he terminates his business for any reason, inform the Minister accordingly, and specify the manner in which he intends to dispose of the antiquities in stock.

(2) The Minister may, upon receiving information under paragraph (1), give instructions regarding the disposal of the antiquities as he may consider appropriate.

16. (1) Any person who at the commencement of these Rules is a dealer in antiquities shall, within a period of six months after the commencement of these Rules, apply for a dealer's licence under these Rules. Transitional provisions.

(2) An application under paragraph (1) shall, in addition to the requirements under rule 5, be accompanied by an inventory of all the items offered for sale, together with accurate records of acquisitions as required under rule 10.

SCHEDULE

(r. 6) L.N. 111/2009.

FORM AD 1.

APPLICATION FOR LICENCE TO DEAL IN ANTIQUITIES

To: The Minister of State for National Heritage and Culture

1. Name of the applicant:

Address:

.....

.....

2. Nationality:

3. Proof of compliance with relevant law (if not Kenyan):

.....

.....

.....

4. Name of premises:

Location (L.R. No., physical address)

.....

Situated in:

Tenure:

5. Material to be offered for sale:

.....

.....

[Subsidiary]

6. State the significance of materials to national heritage:

.....

.....

7. How were the material acquired?

.....

.....

8. Country of origin:

.....

Date:

Signature of the applicant:

L.N. 110/2009.

THE NATIONAL MUSEUMS AND HERITAGE (EXPLORATION LICENCES AND EXPORT PERMITS) RULES, 2009

Citation.

1. These Rules may be cited as the National Museums and Heritage (Exploration Licences and Export Permits) Rules, 2009.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“exploration licence” means a licence issued under section 27 of the Act;

“Provincial Administration” means the office of the District Commissioner responsible for the area in which the licensee operates.

Conditions of the licence.

3. The conditions set out in the Schedule hereto shall apply to exploration licence and export permit issued under the Act.

Compliance.

4. The Minister may revoke the licence of a licensee who fails to comply with the conditions set out in the Schedule.

SCHEDULE

(r. 3)

1. A licensee shall not enter into any land, execute any works or destroy or interfere with any crops, cultivations or dwellings on any land without the consent of persons or authorities having any interest or right in or over that land.

2. A licensee shall exercise care and ensure that objects found are treated for preservation in accordance with the prevailing scientific practice, and that any excavation made shall be maintained in a manner that ensures that any objects remaining thereon is protected from deterioration.

3. Upon completion of any excavation works, a licensee shall fill up or adequately fence around any hole that might be dangerous to human beings or animals.

4. Nothing in a licence shall be construed as allowing the removal of any objects of veneration to the local inhabitants.

5. At the conclusion of the season's work, the licensee shall submit one copy of the field catalogue, photographs, plans and any other relevant records to the National Museums for retention.

6. A licensee shall not remove any object from Kenya unless the licensee is authorized to do so by an export permit issued by the Minister.

7. Pending the granting of the export permit, all recovered objects shall be surrendered to or deposited at the National Museums, Nairobi, or at any other institution designated by the Minister.

8. Where a licensee does not intend to export recovered objects, the recovered objects shall be deposited at the National Museums.

9. A licensee shall inform the Provincial Administration in charge of the area in which he intends to explore or excavate of the location of his activities, and shall comply with any instructions of the provincial administration relating to the licence.

10. All operations under a licence shall be carried out under the immediate personal supervision of, and in the presence of the licensee or such members of his staff as may be approved in writing, for that purpose by the Minister.

11. The licensee shall not allow unqualified person, whether in his employment or not, to collect specimens.

12. The licensee shall, before issuing any report to the media or any other person or authority regarding any discoveries made, inform the National Museums.

[Subsidiary]

L. N. 130/2009.

CONFIRMATION OF SITES AND MONUMENTS

IN EXERCISE of the powers conferred by section 25 (3) of the National Museums and Heritage Act, the Minister of State for National Heritage and Culture confirms the monuments, protected areas and buildings set out in the Schedule, which he considers of historical and archeological interest to be sites and monuments within the meaning of the Act.

SCHEDULE

VIGANGO OF THE GIRYAMA TRIBE

All those objects known as Vigango found and used as funeral posts among the Giriama tribe in Coast Province.

EAST ALEGO NYANGOMA KOGELO

All that area known as East Alego Nyangome Kogelo, parcel No. 364 measuring approximately three decimal six (3.6) hectares, situated in Siaya District.

ST. PETERS CATHOLIC CHURCH

All that building known as St. Peters Catholic Church measuring approximately 40ft x 40ft and geographical measurements of 819.224 mE,

9879288.3 mN situated in Narok District, Rift Valley Province.

OLD ASIAN SCHOOL

All that building known as the Old Asian School measuring approximately 50ft x 25ft and geographical measurements of 819,859 mE, 98795986.7 mN situated in Narok District, Rift Valley Province.

FORMER ITALIAN BARRACKS

All that building known as the former Italian Barracks measuring approximately 8ft x 30ft and geographical measurements of 819.167 mE, 9880051.6 mN situated in Narok District, Rift Valley Province.

CITY PARK

An area of forest land on L.R. No. 209/6559/6 measuring approximately sixty (60) hectares and set out in part development plan No. CPD and ARCH/FP/20/111/97 known as City Park in Parklands area in the city of Nairobi.

OL DONYO SABUK HOUSE, KILIMA MBOGO

All that building known as Ol Donyo Sabuk House, Kilima Mbogo and the surrounding compound of the central farm of Muka Mukuu farmers Co-operative, measuring about 33,000 acres, Kyeleni Sub-location, Kymzavi Location, Matunguru Division, Machakos District, Eastern Province.

**THE NATIONAL MUSEUMS AND HERITAGE
(ADMISSION FEES) REGULATIONS, 2009**

[Subsidiary]

L.N. 167/2009,
L.N. 112/2010.

1. These Regulations may be cited as the National Museums and Heritage (Admission Fees) Regulations, 2009.

2. Every adult or child who is not a resident of Kenya or East Africa shall pay the fees prescribed in the First Schedule before admission into any historic site, monument or museum.

3. Every adult or child who is not a resident of Kenya but a resident of East Africa shall pay the fees prescribed in the Second Schedule before admission into any historic site, monument or museum.

4. Every adult or child, who resides in Kenya shall pay the fees prescribed in the Third Schedule before admission into any historic site, monument or museum.

FIRST SCHEDULE

**ADMISSION FEES FOR NON-RESIDENTS
(OUTSIDE EAST AFRICA)**

<i>Historic Sites/Monuments and Museums</i>	<i>Class of Visitor</i>	<i>Entrance fees During Weekdays, Weekends and Public holidays (KSh.)</i>
1. Gede National Monument	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250
2. Mnarani and Jumba Ruins	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250
3. Takwa Ruins	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250
4. Nairobi National Museum The Snake Park, Karen Blixen and Fort Jesus Museums.	(a) For every person aged sixteen years and over	800
	(b) For every child over three and Below sixteen years	400

[Subsidiary]

<i>Historic Sites/Monuments and Museums</i>	<i>Class of Visitor</i>	<i>Entrance fees During Weekdays, Weekends and Public holidays (KSh.)</i>
5. Kitale, Meru, Narok, Kabarnet & Kapenguria	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250
6. Kisumu Museum	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250
7. Malindi Museum	(a) For every person aged sixteen year and over	500
	(b) For every child over three and Below sixteen years	250
8. Lamu Museum	(a) For every person aged sixteen year and over	500
	(b) For every child over three and Below sixteen years	250
9. A package for Lamu Museum, Lamu Fort, Swahili House and German Post Office	(a) For every person aged sixteen year and over	3,000
	(b) For every child over three and Below sixteen years	1,500
10. A package for Nairobi Museum and Snake Park	(a) For every person aged sixteen years and over	1,200
	(b) For every child over three and Below sixteen years	600
11. Wajir Museum	(a) For every person aged sixteen years and over	100
	(b) For every child over three and below sixteen years	50

[Subsidiary]

L.N. 112/2009.

SECOND SCHEDULE

ADMISSION FEES FOR NON-RESIDENTS (WITHIN EAST AFRICA)

<i>Historic Sites/Monuments and Museums</i>	<i>Class of Visitor</i>	<i>Entrance fees During Weekdays, Weekends and Public holidays (KSh.)</i>
1. Nairobi ,the Snake Park, Karen Blixen and Fort Jesus Museums	(a) For every person aged sixteen years and over	400
	(b) For every child over three and Below sixteen years	200
(2. Kitale Museums	(a) For every person aged sixteen years and over	400
	(b) For every child over three and Below sixteen years	200
3. Kisumu Museum	(a) For every person aged sixteen years and over	400
	(b) For every child over three and Below sixteen years	200
4. Malindi Museum	(a) For every person aged sixteen years and over	400
	(b) For every child over three and Below sixteen years	200
5. Lamu Museum	(a) For every person aged sixteen years and over	400
	(b) For every child over three and Below sixteen years	200
6. A package for Lamu Museum, Lamu Fort, Swahili House and German Post Office	(a) For every person aged sixteen years and over	1,500
	(b) For every child over three and Below sixteen years	750
7. A package for Nairobi Museum and Snake Park	(a) For every person aged sixteen years and over	600
	(b) For every child over three and Below sixteen years	300
8. Wajir Museum	(a) For every person aged sixteen years and over	400
	(b) For every child over three and below sixteen years	200

[Subsidiary]

L.N. 112/2009.

THIRD SCHEDULE

ADMISSION FEES FOR RESIDENTS

<i>Historic Sites/Monuments and Museums</i>	<i>Class of Visitor</i>	<i>Entrance fees During Weekdays, Weekends and Public holidays (KSh.)</i>
1. Nairobi National Museum, Karen Blixen, Snake Park, and Fort Jesus Museums	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
2. Kitale Museums	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
3. Kisumu Museum	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
4. Meru, Kapenguria and Kabarnet Museums	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
5. Malindi Museum	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
6. Lamu Museum	(a) For every person aged sixteen years and over	100
	(b) For every child over three and Below sixteen years	50
7. A package for Lamu Museum, Lamu Fort, Swahili House and German Post Office	(a) For every person aged sixteen years and over	375
	(b) For every child over three and Below sixteen years	180

[Subsidiary]

<i>Historic Sites/Monuments and Museums</i>	<i>Class of Visitor</i>	<i>Entrance fees During Weekdays, Weekends and Public holidays (KSh.)</i>
8. Organized educational groups	(a) College and tertiary institutions with prior booking (per student or teacher)	100
	(b) Primary and Secondary schools with prior booking (per child or teacher)	50
9. A package for Nairobi Museum and Snake Park	(a) For every person aged sixteen years and over	150
	(b) For every child over three and below sixteen years	75
10. Wajir Museum	(a) For every person aged sixteen years and over	500
	(b) For every child over three and Below sixteen years	250

