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THE BALOCHISTAN GAZETTE

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NO. 71 QUETTA TUESDAY JULY 13, 2010.

BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT

NOTIFICATION.

Dated Quetta, the 6th July, 2010.

No. PAB/Legis: V (11)/ 2010. ' The Balochistan Cultural Heritage Preservation Bill, 2010 having been passed by the Provincial Assembly of Balochistan on 1st July, 2010 and assented to by the Governor, Balochistan on 5 July, 2010 is hereby published as an Act of the Provincial Assembly.

(THE BALOCHISTAN CULTURE HERITAGE PRESERVATION ACT, 2010.)

ACT NO X_OF 2010

(First published after having received the assent of the Governor of Balochistan in the Balochistan Gazette (Extra — ordinary) dated the 5th July, 2010).

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Preamble

Short title,
extent and

commencement.

Definitions.

2
AN
ACT

to make provision for preservation and protection of
ancient places and objects of architectural, historical,
archaeological, artistic, ethnological, anthropological and
national interest in the Province of Balochistan.

- WHEREAS it is expedient to preserve and protect
"ancient places and object of architectural, historical,
archaeological, artistic, ethnological, anthropological, and
national interest in the province of Balochistan and for the
matters connected therewith or ancillary thereto;

It is hereby enacted as follows:—

1. (1) __ This Act may be called the Balochistan Cultural
Heritage Preservation Act, 2010.

(2) It extends to the whole of Balochistan except the
Tribal Areas.

(3) It shall come into force at once.
a. In this Act, unless there is anything repugnant in the
subject or context,—

(a) "Act" means the Balochistan Cultural Heritage

Preservation Act 2010.

(b) "Committee" means an advisory committee

constituted under section 3 of the Act.

(c) "Chairman" means Chairman of the Committee;

(d) "Government" means the Government of

Balochistan;

(e) "Maintain and maintenance" means and include the fencing, covering, repairing, resorting, guarding and keeping clean the Protected Heritage and the precincts thereof;

(f) "Member" means a member of the Committee;

(g) "Protected Heritage" means any premises or objects — of archaeological, architectural, historical, cultural or national value, declared as such by the | Government by a notification in the official gazette, | and include the land externally appurtenance thereto and the outer walls therefore; and

(h) "Owner" means and includes any person legally competent to act on behalf of the owner and any

manger or trustee exercising the powers of

management.

Advisory 3. (1) For the purpose of this Act there shall be an Committee. Advisory Committee consisting of. —

(a) aChairman; and

(b) six members:

Provided that out of six members, three shall be from amongst the architectural historians, archaeologists, heritage conservators or the scholars of traditional arts and crafts.

(2) All the members including the Chairman of the

Committee shall be appointed by the Government.

(3) The Chairman or a member of the Committee,

other than an ex-officio member, unless he resigns by

"Referenceto

- Government on
' an issue of
historical

' interest.

_ Custody
preservation

etc, of premises

Declaration of
Protected

Heritage.

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4

~ Taddressing 'a letter to Government, shall hold office on the
pleasure of the Government and may be removed any time by ©

_ the Government.

(4) The Chairman may co-opt any person as a.

_ member of the Committee.

(5) An ex-officio member shall cease to be a

' member of the Committee, on vacating such office to which

_he had appointed in his official capacity.

"4. Tf any question arises whether any premises or objects
'is of architectural, historical, archaeological or national value,
'it shall be referred to the Government, which shall after
"consultation with the Committee decide the same and the

decision of Government shall be final.

5. Where the Committee receives any information or.

otherwise came into its knowledge by any means, of the |

discovery or existence. of any premises or object of.

architectural, historical, culture or national value of which |

there is no owner, it shall, after satisfying itself as to the

_ correctness of the information or knowledge, take such steps "

_as may be considered necessary for the custody, preservation

_and protection of such premises of object.

6. (1) Government may, by notification in the official

Gazette on the recommendation of committee or otherwise |

declare any premises of historical, cultural or architectural

_value to be a Protected Heritage within the meaning of this
Act.

Acquisition of
right or
guardianship of
a protected
heritage of the

Government.

5

(2) A copy of every notification published under

_ sub-section (1) shall be published in leading newspapers and
- fixed up in a conspicuous place on or near such premises/

object together with an intimation that any objection on the

same may be filed within one month of the date of

notification, where after no objection shall either be received

or taken into consideration.

(3) On the expiry of the said period of one month,

the Government shall after considering the objections, if any, |

' may confirm or withdraw the notification.

(4) A Notification under this section shall, unless,

' and until it is withdrawn, be conclusive proof of the fact that the

premises or objects to which it relates, is a Protected Heritage

' within the meaning of this Act.

i (1) - The Committee with the sanction of the

Government may purchase or assume custodianship of any
protected heritage.

(2) The committee may accept the gift or bequest of
any protected heritage.

(3) The owner of any protected heritage may, by a
written instrument, may appoint the committee as the guardian

of the protected heritage and the committee may, with the

' sanction of Government, accept such guardianship.

(4) When the committee has accepted the
guardianship of a protected heritage under sub-section(3), the

owner shall except as expressly provided in this Act, have the

6

same status, right, title and interest in the protected heritage or object as if the committee had not been appointed guardian, thereof,

| (5). "When the committee has accepted the guardianship of a protected heritage under sub-section (3), the — provision of this Act relating to agreements executed under section 8 shall apply to the written instrument executed under — 'the said sub-section. |

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¥.

Agreement for 8. (1) 'The Committee may, with the previous sanction

Preservation of | of the Government propose to the owner for entering into an

a Protected "agreement with the Government for the preservation of any Heritage. _ Protected Heritage.

(2) An agreement under sub-sanction (1) may :
provide for the following matters or for such of them as it
_ may be found expedient to include in the agreement.—

(a) the maintenance and custody of the Protected Heritage and the duties of any person who may _

be employed to watch it; |

(b) the restriction of the owner's right to destroy, remove, alter or deface the protected heritage;

(c) the facilities of access to the public or to any portion of the public and to persons député by the committee to inspect or maintenance the protected heritage;

(d) the notice to be given to Government in case the land on which the protected heritage is situated

is offered for sale by the owner: and right ta

Cwsers uncer

usability.

7

reserve by Government to purchase such heritage, or any specified portion of such ~ heritage, at its market value; :

(e) the payment of an expenses incurred by owner |

or Government in connection with the | preservation of the protected heritage; and

(f) | any matter connected with the preservation of the protected heritage, which is a subject of agreement between the owner and Government.

(3) The terms of an agreement under this section

-may be altered from time to time with the sanction of

- Government.

(4) Either party may terminate an agreement under |

this section on giving three months notice in writing to the _ other party.

(5) An agreement under this section shall be binding - on all the persons claiming to be owner of the Protected | Heritage to which it relates, through or under party by whom or on whose behalf the agreement was executed.

(6) Any right acquired by Government in respect of expenses incurred for protecting or preserving a Protected Heritage shall not be affected by the termination of an

agreement under this section.

9. (1) _ If the owner is unable by reason of infancy or other disability to act for himself, the person legally entitled to act on his behalf may exercise the powers conferred upon as

owncrs under section 8.

Application of
agreement

endowment to
repair of a
Protected
Heritage.

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(2) If it is apprehended that any person intends to destroy
remove, alter deface or imperil the protected heritage or to
- build on or near the site thereof in contravention of the terms
of an agreement for its preservation under section 8, the
committee may make an order prohibiting any such
contravention.

(3) If an owner or other person who is bound by an
_ agreement for the preservation or maintenance of a Protected -
Heritage under section, 8 refuse to do any act which is in
neglects to do any such act within such reasonable time as
| may be fixed by the Committee may authorize any person to
do any such act, and the expense of doing any such act or such
- portion of the expense as the owner may be liable to pay under
the agreement may be recovered from the owner as is it were
an arrear of land-revenue.

(4) A person aggrieved by an order under this
section may appeal to the Government within thirty days from
the date of order; on such appeal the Government may pass
orders either to cancel the same or to modify it; and the -

decision of the Government thereon shall be final.

10. (1) _ If any owner or other person competent to enter
into an agreement under section 8 for the preservation of a
Protected Heritage, refuses or fails to enter into such an
agreement when proposed to him by the committee and if any ©
endowment has been created for the purpose of keeping such -
heritage in repair, or for that purpose among other, the

Compulsory
acquisition of
Protected
Heritage.

9

Committee may, institute an application in the Court of the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application a the endowment or of any party thereof, and any such order

may be excused as if it was the decree of Civil Court.

11. (1) If Government apprehends that a Protected Heritage is in danger of being destroyed, damaged or allowed to fall in to decay, the Government may acquire the same under the provisions of the Land Acquisition Act, 1894.

(2) The power of acquisition conferred by sub-section (1) shall not be exercised in the case of.—

(a) a Protected Heritage or a part of the same, 'used

periodically for any religious observance; or

(b) a Protected Heritage, which is the subject of a

subsisting agreement executed under section 8.

Maintenance of
Protected
Heritage.

Relinquishment
of Government
right in a
Protected
Heritage.

Right of access
to certain

Protected

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10

12. (1) The Committee shall maintain and preserve
every Protected Heritage in respect of which Government has

acquired any of the rights mentioned in section 7 or which the
. Government has acquired under section 11.

(2) The Committee may receive voluntary
contributions and donations towards the cost of maintenance
of a Protected Heritage and may give orders as to the
management and application of any funds so received by it:

Provided that no contribution received under this
section shall be applied to any purpose other than the purpose .
for which it was contributed.

(3) A Protected Heritage declared under this Act
shall not be used for any purpose inconsistent with its
character.

13. Where rights have been- acquired by Government in
respect of any Protected Hermitage under this Act by virtue of
any sale, lease, gift or will, the Committee may with the
sanction of Government:

(a) 'relinquish the rights so acquired in favour of the
person, who for the time being is the owner of
such heritage; or
(b) relinquish any guardianship of a Protected
Heritdge, which it was accepted under this Act.

14. (1) — Subject to such rules as may be prescribed by
Government, the public shall have a right of access to any

Protected Heritage maintained by Government under this Act.

Heritage

Penalty.

Overriding
effect.

Rules

Indemnity.

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(2) In making any rules under sub-section (1)
Government may provide that a breach of it shall
be punishable with fine, which may extend to
five thousand rupees.

15. Where any person including the owner destroys,
removes, injures, alters, defaces a Protected Heritage,
maintained by Government under this Act or in respect of
which an agreement has been executed under section 8, shall
be punishable with imprisonment for a term which may extend
to three years, or with fine which may extend to one hundred
thousand rupees, or with both.

16. The provision of this Act. shall have effect
notwithstanding any thing to the contrary contained in any
- other law for the time being in force.

17. The Government may make rules to carry out the purpose .
of this Act.

18. No suit or prosecution or other legal proceedings shall lie -
against Government, the Committee, Chairman, member or
any Officer of the Committee in respect of anything done or
intended to be done in good faith under this Act or any rules
made there under.

Secretary
Balochistan Provincial Assembly