

# I . Safeguarding system & policy

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## 1. National Law

### I. A. Short Title: Intellectual Property Act, No. 36 of 2003

**Full title:** An Act to provide for the Law relating to Intellectual Property and for an efficient procedure for the registration, control, and administration thereof; To amend the Customs Ordinance (Chapter 235) and the High Court of the Provinces (Special) Provisions Act, No. 10 of 1996; and to provide for matters connected therewith or incidental thereto.

**Section/Division in charge:** The National Intellectual Property Office of Sri Lanka

**Year of Establishment:** January 1, 1982

Established under the Intellectual Property Act No 36 of 2003. Mandated with the administration of the intellectual Property System in Sri Lanka. First established on January 1, 1982 with the same mandate under the provisions of Code of intellectual property Act no 52 of 1979.

**Amendments:** This Act repeals Code of Intellectual Property Act, No. 52 of 1979 (as amended by Act, No. 30 of 1980, No.2 of 1983, No. 17 of 1990, No. 13 of 1997 and No. 40 of 2000).

### **Particular articles related to ICH:**

Chapter 1, Section 5 - Definition of Terms

*“expression of folklore” means a group oriented and tradition based creation of groups or individuals, reflecting the expectation of the community as an*

*adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means, including:*

- 1) folktales, folk poetry, and folk riddles;
- 2) folk songs and instrumental folk music;
- 3) folk dances and folk plays;
- 4) productions of folk arts in particular, drawings, paintings, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalwork, jewellery, handicrafts, costumes, and indigenous textiles; “performers” means singers, musicians, and other persons who sing, deliver, declaim, play in, or otherwise perform, literary or artistic works or expressions of folklore;

**Responsible organization/department:** National Intellectual Property Office of Sri Lanka

**Contact details:**

1. **Name:** Director General
2. **Telephone:** +94 (11) 2689368
3. **Fax:** +94 (11) 2689367
4. **Email:** nipos@sltnet.lk
5. **Web:** www.nipo.gov.lk
6. **Postal address:** National Intellectual Property Office of Sri Lanka, 3rd Floor, Samagam Medura, No. 400, D.R. Wijewardena Mawatha, Colombo 10, Sri Lanka.

**Information source:** *Official sources*

II. Short Title: Antiquities Ordinance No. 9 of 1940

**Full Title:** An Ordinance to provide for the better preservation of the antiquities of Sri Lanka, and of sites and buildings of the historical or archaeological importance in Sri Lanka

**Section/Division in charge:** Department of Archaeology, Sri Lanka

**Year of Establishment:** 1890

**Amendments:** The Ordinance was amended by the following Acts: No. 2 of 1955, No. 22 of 1955, No. 24 of 1998 and No. 12 of 2005

**Particular articles related to ICH:**

1. Part 1, Article 2

- (a) No antiquity shall, by reason only of its being discovered in or upon any land in the ownership of any person, be or be deemed to be the property of such person : Provided that such person shall be deemed to be interested in such antiquity in accordance with the provisions of this Ordinance.
- (b) Every ancient monument which on the date on which this Ordinance comes into operation is not owned by any person or the control of which is not vested in any person as trustee, incumbent or manager, shall be deemed to be the absolute property of the State. [ 3,24 of 1998
- (c) All undiscovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground or in any river or lake or within the territorial sea of Sri Lanka, shall be deemed to be the absolute property of the State, subject to the provisions of this Ordinance

2. Part 5, Article 36

- (a) No person shall, except upon a license in the prescribed form issued by the Director-General of Archaeology, export any antiquity from Sri Lanka.
- (b) For the purposes of the application of the provisions of the Customs Ordinance, antiquities shall be deemed to be articles the exportation of which is restricted by enactment or legal order.

3. Part 5, Article 37

- (a) Every application for a license under section 36 shall be made to the Director-General of Archaeology in the prescribed form, shall set out a list of the antiquities

sought to be exported, and shall contain such other particulars as may be prescribed.

- (b) If the Director-General of Archaeology is of opinion that any antiquity sought to be exported should be acquired for the Colombo or other museum in Sri Lanka or that for any other reason it is not desirable that such antiquity should be exported, he may refuse to issue a license under section 36 in respect of that antiquity.

#### 4. Part 5, Article 38

- (a) Any person aggrieved by the refusal of the Director-General of Archaeology under section 37 to issue any license may appeal against such refusal to the Minister.
- (b) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive.

#### 5. Part 5, Article 39

- (a) Where a license to export any antiquity has been refused on the ground that such antiquity should be acquired for the Colombo or other museum in Sri Lanka, and there is a dispute between the authority empowered to purchase objects for the use of such museum and the owner of the antiquity as to the price to be paid therefore, such price shall be determined in the manner provided in section 45, and such determination shall be final and conclusive. On payment of the price so determined the antiquity shall become the absolute property of the museum.
- (b) Where the price determined under subsection (1) is not paid to the owner of the antiquity within two months from the date on which the price was so determined, the museum shall be deemed to have lost all right to the acquisition of the antiquity at such price, and the Director-General of Archaeology shall issue a license to export the antiquity subject to any other conditions which may be applicable to the issue of such license being complied with.

#### 6. Part 8, Article 48-Definition of Terms

In this Ordinance, unless the context otherwise requires

"ancient monument" means any monument lying or being or being found in Sri Lanka which dates or may reasonably be believed to date from a period prior to the 2nd day of March, 1815, and includes

- 1) any other monument which has been declared to be an ancient monument by an Order published in the Gazette under section 16, and
- 2) any tree in respect of which an Order under section 17 has been published in the Gazette ;

"antiquity " means

- 1) any ancient monument, or
- 2) any of the following objects lying or being or being found in Sri Lanka, which date or may reasonably be believed to date from a period prior to the 2nd day of March, 1815:- statues, sculptured or dressed stone and marbles of all descriptions, engravings, carvings, inscriptions, paintings, writings, and the material whereon the same appear, all specimens of ceramic, glyptic, metallurgical and textile art, coins, gems, seals, jewels, jeweler, arms, tools, ornaments, and all other objects of art which are movable property;[16, 24 of 1998]

"archaeological heritage" means that part of the material heritage of mankind in respect of which archaeological methods provide primary information and includes all vestiges of human existence and places relating to all manifestations of human activity, abandoned structures and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them.

"Director-General of Archaeology" means the person appointed to be or to act as Director General of Archaeology and includes any person authorized by the Director-General of Archaeology under section 43 in respect of any power, duty or function of the Director-General of Archaeology under this Ordinance;

" State land" means any land which under any law is deemed or presumed to be the property of the State or to which the State is law-fully entitled together with all rights, interests and privileges attached or appertaining thereto ; and includes any land belonging to the State vested in any local authority ; [ 16, 24 of 1998]

"monument" means any building, or other structure or erection, or any tomb, tumulus or other place of interment, or any other immovable property of a like nature or any part or remains of the same or any other site where the material remains of historic or prehistoric human settlement or activity may be found; and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument;

"owner", with reference to any property, movable or immovable, means the person whose title to that property is recognized by any written or other law in force in Sri Lanka;

"peace officer" means a police officer and includes any grama niladhari appointed by a Government Agent to perform police duties;

"prescribed" means prescribed by regulation;

"regulation" means a regulation made by the Minister under this Ordinance; [16,24 of 1998]

"territorial sea" means the area declared to be the territorial waters of Sri Lanka by Proclamation made under the Maritime Zones Law, No. 22 of 1976.

**Responsible organization/department:** Department of Archaeology, Sri Lanka

**Contact details:**

1. **Name:** Director General
2. **Telephone:** +94 (11) 2694727
3. **Fax:** +94 (11) 2696250

4. **Email:** arch@diamond.lanka.net
5. **Web:** www.archaeology.gov.lk
6. **Postal address:** P.O. Box 532, Sir Marcus Fernando  
Mawatha,, Colombo 07, Sri Lanka.

**Information source:** Official sources

### **III. Title of Law-Short title: Cultural Property Act, No. 73 of 1988**

**Full Title:** An act to provide for the control of the export of cultural property to provide for a scheme of licensing to deal in cultural property: and to provide for matters connected therewith or incidental thereto.

**Section/Division in charge:** Department of Archaeology, Sri Lanka

**Year of Establishment:** Established in 1890

**Amendments:** None

#### **Particular articles related to ICH:**

##### ***Part I - Export of Cultural Property***

1. Section 2 - Prohibition of export of cultural property except upon license
  - (a) No person shall, except upon a license in the prescribed form issued by the Controller of Exports (hereinafter referred to as the "Controller") and upon the payment of a prescribed fee export or attempt to export any cultural property from Sri Lanka.
  - (b) This section shall have effect as if it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply accordingly.
2. Section 3 - Application for license to export cultural property

- (a) Every application for a license under section 2 shall be made to the Controller in the prescribed form and shall be accompanied by a statement from the Archaeological Commissioner stating that he has no objection to the issue of such license to the applicant.
- (b) The Controller may refuse to issue a license where,
  - 1) the Archaeological Commissioner in the statement issued by him objects to the issue of such licence ; or
  - 2) he is of opinion that any cultural property sought to be exported is a property which is required for museum in Sri Lanka.

### 3. Section 4 - Appeal against refusal of licence

- (a) Any person aggrieved by the refusal of the Controller to issue any licence under section 3 may appeal against such refusal to the Secretary to the Ministry in charge of the subject of Cultural Affairs (hereinafter referred to as the "Secretary ") against such refusal.
- (b) The Secretary may in dealing with any appeal preferred to him under subsection (1), affirm or set aside the decision of the Controller against which the appeal has been preferred.

### 4. Section 5 - Penalty for export of cultural property without permission

If any person, himself or by another person on his behalf exports or attempts to export any cultural property in contravention of section 2, he shall, without prejudice to any forfeiture or penalty to which he may be liable under the provisions of the Customs Ordinance, be guilty of an offence and shall, upon conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a period not exceeding three years or to both such fine and imprisonment.

### 5. Section 6 - Delegation of powers and duties of the Controller

- (a) The Controller may delegate to an officer of the Department of Archaeology the power to issue licence.

- (b) Every officer appointed under subsection (1) shall exercise the power delegated to him subject to the general or special directions of the Controller.

## **Part II - Establishment of the Cultural Property Board**

### **6. Section 7 - Establishment of the Cultural Property Board**

There shall be established a Board called the Cultural Property Board (hereinafter referred to as " the Board ").

### **7. Section 8 - Constitution of the Board**

(a) The Board shall consist of-

- 1) the Secretary to the Ministry of the Minister in charge of 'the subject of Cultural Affairs, who shall be the Chairman;
- 2) the Director of Museums ;
- 3) the Director of National Archives :
- 4) Chairman, Central Environmental Authority;
- 5) two members who shall have specialized knowledge and experience in matters relating to cultural property appointed by the Minister.

(b) A person shall be disqualified for appointment or continuing as a member of the Board under paragraph (5) of subsection (a) –

- 1) if he is or becomes a member of Parliament; or
- 2) if he is not or ceases to be a citizen of Sri Lanka.

(c) The members appointed by the Minister under paragraph (5) of subsection (a) subject to the provisions of subsections (d) and (e) shall hold office for a term of three years but shall be eligible for reappointment

(d) The Minister may remove from office any member of the Board appointed under paragraph (5) of subsection (a) without assigning any reason therefor and such removal shall not be called in question in any court.

- (e) In the event of the vacation of office of any member appointed under paragraph (5), or his removal from office under the provision of the preceding subsection, the Minister may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds.
- (f) If any member of the Board appointed under paragraph (5) is temporarily unable to discharge the duties of his office due to ill-health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place as member,
- (g) The members of the Board shall be remunerated at such rates as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

#### 8. Section 9 - Meetings and quorum of the Board

- (a) The Board may regulate its procedure in regard to the meetings of the Board and the transaction of business at such meetings.
- (b) The quorum for a meeting of the Board shall unless the Board otherwise determines be four members.

#### 9. Section 10 - Power of the Board

- (a) The Board shall be an Advisory Board and shall advise the Archaeological Commissioner in the exercise of his powers or on any other matters referred to the Board for their opinion.
- (b) The Board may in the exercise of their power retain the services of any person having a specialised knowledge and experience in matters relating to cultural property.

### **Part III – Registration of Cultural Property**

#### 10. Section 11 - Minister to specify the categories of cultural property to be registered

The Minister in consultation with the Board and with the approval of the Cabinet may from time to time by Notification published in the Gazette specify the categories of cultural property that shall be registered under this Act, having due regard to the following considerations :

- 1) the necessity for conserving such category of cultural property;
- 2) the need to preserve such objects within Sri Lanka for the better appreciation of her cultural heritage ;
- 3) such other factors as will or are likely to contribute to the safeguarding of the cultural heritage of Sri Lanka.

11. Section 12 - Registration of cultural property in private possession

No person shall own or have in his custody or possession any cultural property specified in the Notification referred to in section 11 unless such cultural property is registered by the registering officer and such officer has issued a certificate of registration in respect of such property.

12. Section 13 - Government Agent to be the registering officer

The Minister may, by Notification published in the Gazette appoint for the purpose of section 12 the Government Agent to be the registering officer for the administrative district for which he has been appointed Government Agent.

13. Section 14 -Applications for certificate of registration-

The Minister may, by Order published in the Gazette, prescribe the period within which an application for a certificate of registration may be made under section 15.

14. Section 15 -Grant of certificate of registration

- (a) Every person required to obtain a certificate of registration under, section 12 shall make an application for such certificate, to the registering officer of the

administrative district within which he resides on an application form prescribed for the purpose.

- (b) On receipt of an application under subsection (1) the registering officer may, after holding such inquiry as he deems fit, grant a certificate of registration containing such particulars as may be prescribed.
- (c) Where an application received under subsection (1) has been rejected, the registering officer shall inform the applicant in writing stating his reasons for such rejection.
- (d) Where an application for a certificate of registration has been rejected, the applicant may, within fourteen days from the date of such rejection, appeal to the Archaeological Commissioner against such rejection.
- (e) Any applicant who is aggrieved by a decision of the Archaeological Commissioner rejecting an application for registration may appeal against such decision to the Court of Appeal.

#### 15. Section 16 - Transfer of ownership of any registered cultural property to be intimated to the registering

Where any person transfers the ownership or custody or possession of any cultural property registered under section 12 such person shall intimate within fourteen days from the date of such transfer, the fact of such transfer to the registering officer of the administrative district within which such person resides.

#### 16. Section 17 - Penalty

Any person who-

- 1) owns or has the custody or possession of any cultural property, fails to make an application under section 15, or
- 2) transfers the ownership or custody or possession of any cultural property and fails to notify such transfer to the registering officer, under section 16.

shall be guilty of an offence and shall, upon conviction after summary trial before a Magistrate, be liable to a fine not

exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

#### **Part IV – Licence to deal in Cultural Property**

##### **17. Section 18 -Licence to deal in cultural property**

No person shall, by himself or by any other person on his behalf, carry on the business of selling or offering to sell any cultural property, except under the authority of a licence issued under section 19.

##### **18. Section 19 – Grant of Licence**

(a) The Archaeological Commissioner may issue a licence to any person to carry on the business of selling or offering to sell any cultural property after taking into consideration-

- 1) the experience of the applicant with respect to trade in cultural property;
- 2) the town, village or area where the business is to be carried on; and
- 3) such other matters as may be prescribed.

(b)

- 1) Every application for a licence to carry on any business as specified in subsection (a) shall be in the prescribed form and shall be accompanied by the prescribed fee ,
- 2) The Archaeological Commissioner may, after holding such inquiry as he deems fit, issue or refuse to issue a licence to an applicant therefor.
- 3) Where the Archaeological Commissioner refuses to Issue a licence to an applicant, he shall inform the applicant of the refusal to issue a licence,
- 4) Every licence authorising the carrying on of any such business as specified in subsection (a) shall be in the prescribed form, for a prescribed period and shall be subject to such terms and conditions, as may be

necessary to ensure that the business authorized by such licence is carried on in compliance with the provisions of the Act.

- 5) The Archaeological Commissioner may cancel a licence issued under subsection (a), if the licensee contravenes or fails to comply with any condition attached to the licence
- 6) Where the Archaeological Commissioner cancels the licence under paragraph (e), he shall cause notice of such cancellation to be given to the licensee-
- 7) An applicant for a licence who is aggrieved by the decision of the Archaeological Commissioner refusing to issue a licence, or the licensee who is aggrieved by the decision of the Archaeological Commissioner cancelling his licence may, within thirty days from the date of such decision, appeal in writing to the Secretary from such decision.

19. Section 20 –Person whose licences have been cancelled may sell cultural property to other licences

Notwithstanding anything contained in section 18, any person whose licence has been cancelled under paragraph (5) of subsection (b) of section 19, may, after making a declaration in writing to the Archaeological Commissioner within such period and in such form and manner as may be prescribed, of all the cultural property in his ownership, custody and possession immediately before the date of such cancellation, sell such cultural property to any other person holding a valid licence issued under section 19 : Provided that no such cultural property shall be sold after a period of six months from the date of cancellation of the licence.

20. Section 21 –Liability of person contravening Sections 18,19 and 20 of this Act

Any person who-

- 1) by himself or by other person on his behalf, sells or attempts to sell any cultural property to a person outside Sri Lanka in contravention of section 18, or
- 2) contravenes the provisions of section 19 or section 20, shall be liable on conviction after summary trial before a Magistrate, to a fine not exceeding five thousand rupees or to imprisonment of either description for a period not less than three years or to both such fine and imprisonment.

## **Part V – Power and Duties of Archaeological Commissioner**

### **21. Section 22 – Powers of Archaeological Commissioner**

The Archaeological Commissioner is hereby empowered-

- 1) to prepare a list of the categories of cultural property required to be registered under section 12;
- 2) to conserve, maintain, repair and restore cultural property that requires registration ;
- 3) to control and administer the registration, sale and protection of cultural property that require registration ;
- 4) to purchase valuable cultural property with such funds as may be granted for the purpose by Parliament,

### **22. Section 23 – Duties of the Archaeology Commissioner**

The Archaeological Commissioner shall perform and discharge all such duties and functions as are assigned to him by this Act him by this Act or by any regulation made thereunder, or by any regulation made thereunder.

### **23. Section 24 – Power of inspection of cultural property**

- (a) The Archaeological Commissioner or any officer authorized by him in writing for the purpose may, at all reasonable times, inspect any cultural property in the possession of any person and it shall be the duty of every such person to permit such inspection and to give to the

Archaeological Commissioner or such officer all reasonable facilities to study such cultural property and to make drawings, photographs or reproductions thereof by the making of casts or by any other means:

Provided that no such drawings, photographs or reproduction shall be sold without the consent of the person in possession of the cultural property:

Provided further that, in the making of casts the prior consent of the person in possession of the cultural property shall be obtained

- (b) Any person who fails to comply with the provisions of subsection (a) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

#### 24. Section 25 –Direction by the Archaeological Commissioner

- (a) Where the Archaeological Commissioner is of the opinion that any cultural property of national importance owned by or in the custody or possession of any person, is in danger of being destroyed, defaced, misused, allowed to fall into decay or where the character of such property is about to be, or is being, or has been, changed, he shall with the concurrence of the Board give directions to the owner or the persons who have custody or possession of such cultural property to safeguard such property.
- (b) Where the Archaeological Commissioner is of opinion that the owner or person in possession is unable to comply with his directions within a reasonable time or where he is of opinion that such directions will not be complied with or that such cultural property will be removed from Sri Lanka without a licence he shall with

the concurrence of the Board take such property into his custody.

- (c) Any person who wilfully obstructs the Archaeological Commissioner in performing the duties made under subsection (b) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.
- (d) Where the Archaeological Commissioner subsequent to the taking of into his custody any cultural property under subsection (b) is satisfied that the owner or the person who had custody or possession of such property is now in a position to comply with his directions or has complied with such directions and that such property will not be in any danger of being destroyed, defaced, misused or allowed to fall into decay he may with the concurrence of the Board. return such property to such owner or person,
- (e) Any property taken into custody under subsection (b) may be handed over to the Director of Museums by the Archaeological Commissioner for exhibition at a Museum for public display.

#### 25. Section 26 – Authorization of Government Agents and other officers to exercise powers of Archaeological Commissioner

The Archaeological Commissioner may generally or specially authorise the exercise, performance or discharge of any of his powers, duties or functions under this Act-

- 1) by the Government Agent of any district, within that district ; or
- 2) by any officer of the Department of Archaeology in any part of Sri Lanka.

### **Part V1 - General**

26. Section 27 – Authorization of Government Agents and other officers to exercise powers of Archaeological Commissioner

No suit or proceeding shall be instituted against any officer appointed under this Act, for any act which is done in good faith or is purported to be done by him in the performance of his duties or the discharge of his functions under this Act.

27. Section 28 –Regulation

- (a) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.
- (b) Every regulation made by the Minister shall be published in the Gazette and shall come into operation, on the date of such publication or on such later date as may be specified in the regulation.
- (c) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of its disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

28. Section 29 – Interpretation

In this Act, unless the context otherwise requires- "antiquity" includes any of the following objects lying or being found in Sri Lanka, and has been in existence for more than one hundred years- Statues sculptured or dressed stone and marbles of all descriptions, engravings, carvings, inscriptions.. paintings, writings, and the material where on the fame appear all specimen of ceramic, glyptic metallurgic and textile art, coins, gems, seals, jewels, jewellery, arms, tools, ornaments, furniture, household utensils, and all other objects of art which are movable property; " Archaeological Commissioner" means the person appointed to be or to act as Archaeological Commissioner and includes any person

authorized in respect of any power, duty or function of the Archaeological Commissioner under this Act ; "cultural property" includes cultural property which on religious or secular grounds is specifically designated by the Minister with the approval of the Cabinet, as being of importance for archaeology, prehistory. history, literature, art or science, and which belongs to one of the following categories;

- 1) rare collections and specimens of fauna, flora, minerals and anatomy;
- 2) property relating
  - i. to history, including the history of science and technology, military and social history: or
  - ii. to the life of national leaders, thinkers, scientists and artists; or
  - iii. to events of national importance;
- 3) products of archaeological excavations or of archaeological discoveries;
- 4) elements of artistic or historic monuments or archaeological sites which have been dismembered;
- 5) antiquities more than one hundred years old, such as inscription, coins, currency notes and engraved seals;
- 6) objects of ethnological interest;
- 7) pictures, paintings and drawings produced entirely by hand;
- 8) original marks of statutory art and sculpture;
- 9) original engravings, prints and lithographs;
- 10) rare manuscripts, old books, documents, drawings, maps, plans and publications of special interest;
- 11) postage revenue and similar stamps;
- 12) archives;
- 13) articles of furniture more than one hundred years old; and
- 14) old musical instruments.

**Responsible organization/department:** Department of Archaeology, Sri Lanka

**Contact details:**

1. **Name:** Director General
2. **Telephone:** +94 (11) 2694727

3. **Fax:** +94 (11) 2696250
4. **Email:** arch@diamond.lanka.net
5. **Web:** www.archaology.gov.lk
6. **Postal address:** PO Box 532, Sir Marcus Fernando Mawatha,, Colombo 07, Sri Lanka.

**Information source:** Official sources

#### **IV. Short title: National Archives Law, No. 48 of 1973**

**Full title:** A law to provide for the establishment of a department of national archives; to provide for the transfer of public records to the national archives; to make better provision for the custody and preservation of public archives and public records; and for matters incidental thereto or connected therewith.

**Section/Division in charge:** Department of National Archives, Sri Lanka

**Year of Establishment:** Established in 1947 as the Department of Government Archivist. Renamed as the Department of National Archives in 1973

**Amendments:** Amended by Acts No. 5 of 1976 and No. 30 of 1981

#### **Particular articles related to ICH:**

##### *Functions of the Advisory Council*

##### 1. Section 6, Article 7

The function of the Advisory Council shall be to advise the Minister on all matters relating to the location, preservation and use of public archives, the custody and transfer of public records, inspection and preservation of documents and manuscripts of historical or cultural or literary value in private possession, inspection by members of the public of public archives, editing and publishing of public archives and private manuscripts.

## 2. Section 6, Article 8

- (a) Subject to the direction and control of the Minister, the Director shall have charge of the National Archives and of the public archives deposited therein and in addition to the specific functions conferred or imposed on him by this Law, he shall take all such measures as are necessary for the conservation of public archives.
- (b) Subject to the provisions of this Law and any regulations made thereunder, the Director or any other officer of the National Archives authorized by him, shall have the power to do all such things as appear to him to be necessary or expedient for the purpose of the efficient administration of this Law and may, in particular
  - 1) make available and publish lists, indices, guides, inventories, calendars, texts, translations and such other things as may be necessary as aids to the public archives in his custody;
  - 2) subject to such terms and conditions, if any, on which any records or manuscripts are transferred to or acquired by the National Archives, produce, edit, print or make any other public use of any public archives in his custody;
  - 3) provide for the restoration and conservation of public archives in a suitable manner and make photographic reproductions or duplicate copies of any public archives where necessary;
  - 4) produce or cause to be produced for inspection by any individual, any public archives open to public inspection;
  - 5) acquire by purchase, donation, bequest, contract, or otherwise or take on loan, any record, manuscript or document or any other material which, in his opinion, should be deposited in the National Archives for permanent preservation;
  - 6) examine any record or any other manuscript or document containing references to Sri Lanka or which had its origin in Sri Lanka but lying outside Sri Lanka, with a view to securing either on loan or by purchase, the original or any copy thereof
  - 7) examine any collection of records or printed material in private possession for purposes of listing and

recording and render such technical aid or assistance as may be necessary for the conservation and preservation of such records or printed material; and  
8) hold public exhibitions or expositions of any class or description of public archives, private documents, manuscripts or printed material deposited in the National Archives, either in the premises of the National Archives or elsewhere.

(c) The Director may in writing delegate any of his powers and functions under this Law to any officer of the National Archives.

## Regulations

### Section 16 (1) (g)

purchase from private individuals or organizations of manuscripts and documents and other printed matter of historical or cultural or literary value for permanent preservation in the National Archives.

## Interpretation

### Section 24

In this Law, unless the context otherwise requires-" Director ". means the Director of National Archives and includes an Assistant Director of National Archives;

"manuscript" means any handwritten document made of paper, ola, copper, silver, gold, or other material except granite;

"National Archives" means the Department of National Archives established under this Law;

"public archives " means all public records and any other manuscript, document or printed matter kept or deposited at the National Archives for permanent preservation;

"public record" or "record" means any original or copy of any manuscript, paper, letter, register, report, book, magazine, map, chart, plan, drawing, picture, photograph or any other record or part thereof either handwritten, drawn, printed or produced in any other way on paper or on any other material except granite and officially received or produced or prepared in any public office in the course of its official functions and includes any cinematograph, film, recording, tape, disc or production in any other media received in any public office;

"printed matter" means any book, magazine, leaflet, newspaper, or any other paper containing information printed by any mechanical or by any other process;

"responsible officer " with reference to any public office, means the head of that office or the officer for the time being discharging the duties and functions of the head of that office.

**Responsible organization/department:** Department of National Archives, Sri Lanka

**Contact details:**

1. **Name:** Director
2. **Telephone:** +94 (11) 2694523 / +94 (11) 2696917  
**Fax:** +94 (11) 2694419 / +94 (11) 2688756
3. **Email:** narchiv@sltnet.lk
4. **Web:** www.archives.gov.lk
5. **Postal address:** Department of National Archives, P.O. Box 1414, No.7, Philip Gunawardena Mawatha, Colombo 07, Sri Lanka

**Information source:** Official sources

**V. Short title: National Museums Ordinance, No. 31 of 1942**

**Full title:** An Ordinance to provide for the establishment and maintenance of National Museums in Sri Lanka, and to declare the Colombo and Kandy Museums to be National Museums

**Section/Division in charge:** Department of National Museums, Sri Lanka

**Year of Establishment:** The Colombo Museum was established in 1877. The present department was established in 1942 under this Ordinance.

**Amendments:** This Ordinance repeals the Museum Ordinance No. 11 of 1873

**Particular articles related to ICH:**

1. Section 2

The Minister may from time to time by Order published in the Gazette establish one or more National Museums for the collection, preservation and exhibition of objects of scientific, historical or artistic interest and for the maintenance of libraries of books and other documents relating to subjects and matters of such interest. 3. (1) On and after the 20th day of November, 1942, the Colombo Museum established under the Museum Ordinance\*, and the institution, heretofore subsisting, called and known as the Kandy Museum, shall be deemed to be National Museums established under this Ordinance.

2. Section 7

The Director may, acting with the prior approval of the Minister in any particular case, or under such general authority and in accordance with such instructions as may be given by him by the Minister in that behalf

- (a) purchase for the purpose of preservation at any National Museum any book, document or object which it is in his opinion desirable to acquire for that museum;
- (b) exchange or sell, or dispose of, whether by way of gift or otherwise, any book, document or object kept at any National Museum, which is a duplicate book, document or object, or which is in his opinion unfit to be preserved or not required for the purposes of the museum;

(c) lend any book, document or object kept at any National Museum for the purpose of being temporarily displayed at any gallery, museum or exhibition;

(d) transfer any books, documents or objects from any National Museum to any other such museum.

### 3. Section 8

All books, documents or objects given or bequeathed to any National Museum, or to the public or the Director for the purposes of any such museum, or given or bequeathed by words showing an intention that the gifts should enure to or for the benefit of any such museum, or which are acquired by purchase or otherwise for the purposes of the museum, shall vest in the Government. 9. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

**Responsible organization/department:** Department of National Museums, Sri Lanka

**Contact details:**

1. **Name:** Director
2. **Telephone:** +94 (011) 2695366  
**Fax:** +94 (011) 2692092
3. **Email:** nmdep@slt.lk
4. **Web:** www.museum.gov.lk
5. **Postal address:** Department of National Museums, P.O Box 854, Sir Marcus Fernando Mawatha, Colombo 7, Sri Lanka

**Information source:** Official Sources

## VI. **Short title: National Library and Documentation Services Board Act, No. 51 of 1998**

**Full title:** An Act to provide for the establishment of the National Library and Documentation Services Board and the National Library and Documentation Centre; and for matters connected therewith or incidental thereto.

**Section/Division in charge:** The National Library and Documentation Services Board, Sri Lanka

**Year of Establishment:** First established as Ceylon National Library Services Board in 1970. Renamed in 1998 as the National Library and Documentation Services Board.

**Amendments:** This Act repeals the Ceylon National Library Services Board Act, No. 17 of 1970

**Particular articles related to ICH:**

Establishment and Functions of the National Library Documentation Centre

1. Section 12 Article 1

There shall be established, under the management and control of the Board, a National Library and Documentation Centre (hereinafter referred to as the Centre).

Subject to the provisions of section 4, the functions of the Centre shall be

1. Section 12 Article 2(a)

to make available for the use of all sections of the community, a national collection of library and documentation resources appropriate to their needs;

2. Section 12 Article 2(b)

to preserve the national and cultural heritage of Sri Lanka through the establishment, development and maintenance of a national collection of library and documentation materials, published in, or relating to, Sri Lanka;

3. Section 12 Article 2(c)

to receive copies of Sri Lankan publications deposited in the Department of National Archives under the Printers and Publishers Ordinance (Chapter 179) ;

4. Section 12 Article 2(d)

to acquire, by purchase or otherwise, copies of publications published in, or relating to, Sri Lanka, or of foreign publications relevant to the needs of Sri Lanka ;

5. Section 12 Article 2(e)

to provide bibliographic services, including National Bibliographic Services and to compile a National Union Catalogue of library materials of libraries in Sri Lanka;

6. Section 12 Article 2(f)

to establish and create a national bibliographic database of documents and publications, published in, or relating to, Sri Lanka;

Section 34 – Interpretation

"Library and Documentation Materials" mean any form, whether written, printed, graphic, electronic, magnetic, optical or otherwise, in or on which information or literary, creative or artistic ideas, are or may be recorded, displayed, stored or reproduced, and include manuscripts, typescripts, books, newspapers, periodicals, maps, microforms, music, photographs, prints, drawings, cinematograph films, sound recordings and video recordings and the expressions "Library and Documentation resources" and "Library and Documentation services" shall be construed accordingly.

**Responsible organization/department:** National Library and Documentation Services Board, Sri Lanka

**Contact details:**

1. **Name:** Director General
2. **Telephone:** +94 (11) 2698847
3. **Fax:** +94 (11) 2685201
4. **Email:** conserve@mail.natlib.lk
5. **Web:** www.natlib.lk

6. **Postal address:** National Library and Documentation Services Board, Independence Avenue, Colombo 07, Sri Lanka

**Information source:** Official Sources

**VII. Short title: Town and Country Planning (Amendment) Act, No. 49 of 2000**

**Full title:** An act to amend the Town and Country Planning Ordinance, No. 13 of 1946

**Section/Division in charge:** National Physical Planning Department, Sri Lanka

**Year of Establishment:** Established in 2001

**Amendments:** This Act amends the Town and Country Planning Ordinance, No. 13 Of 1946

**Particular articles related to ICH:**

1. *Section 2 - Replacement of long title to Ordinance No.13 of 1946*

The Town and Country Planning Ordinance. No. 13 of 1946, (hereinafter referred to as "The principal enactment") is hereby amended by the substitution for the long title thereof of the following : "An Ordinance to authorize the formulation and implementation of a national physical planning policy; the making and implementation of a national physical plan with the object of promoting and regulating integrated planning of economic, social, physical and environmental aspects of land in Sri Lanka; to provide for the protection of natural amenities, the conservation of natural environment, buildings of architectural and historic interest and places of natural beauty; to facilitate the acquisition of land for the purpose of giving effect to such plan and to provide for matters incidental to or connected with the matters aforesaid".

2. Section 2 -Replacement of sections 2. 3 and 4 of the principal enactment

Sections 2, 3 and 4 of the principal enactment are hereby repealed and the following new sections substituted therefore:"

- 1) A national physical plan may be prepared under this Ordinance in conformity with the national physical planning policy, with respect to land, whether there are or are not buildings thereon, with the general object of promoting and regulating the development of the land, of securing proper infrastructure, amenities and conveniences, of conserving the natural and built environment of architectural, historic of aesthetic interest and of natural beauty.
- 2) There shall be established a National Physical Planning Council (hereinafter referred to as the Council) consisting of"
  - i. the Head of the Government, who shall be the Chairman;
  - ii. the Minister in charge of the subject of National Physical Planning, who shall be the Vice Chairman;
  - iii. the Minister in charge of the subject of Economic Planning;
  - iv. the Minister in charge of the subject of Finance;
  - v. the Minister in charge of the subject of Land;
  - vi. the Minister in charge of the subject of Agriculture;
  - vii. the Minister in charge of the subject of Industry;
  - viii. the Minister in charge of the subject of Housing;
  - ix. the Minister in charge of the subject of Urban Development;
  - x. the Minister in charge of the subject of Transport;
  - xi. the Minister in charge of the subject of Highways;
  - xii. the Minister in charge of the subject of Ports;
  - xiii. the Minister in charge of the subject of Civil Aviation;
  - xiv. the Minister in charge of the subject of Coast Conservation;
  - xv. the Minister in charge of the subject of the Environment;

- xvi. the Minister in charge of the subject of Forestry ;
- xvii. the Minister in charge of the subject of Tourism ;
- xviii. the Minister in charge of the subject of Irrigation;
- xix. the Minister in charge of the subject of Power ;
- xx. the Minister in charge of the subject of Culture ;
- xxi. the Minister in charge of the subject of Provincial Councils;
- xxii. the Minister in charge of the subject of Plan Implementation;
- xxiii. the Minister in charge of the subject of Health.
- xxiv. Chief Ministers of all Provinces.

3. Section 3 - Insertion of new sections 4A. and 4B in the principal enactment

The following new sections are hereby inserted immediately after section 4 and shall have effect as sections 4A and 4B respectively of the principal enactment:"

- 1) There shall be established an inter- Ministerial Co-ordinating Committee on National Ministerial Physical Planning (hereinafter referred to as "Coordinating Committee")'
- 2) The Coordinating Committee shall consist of the following members who shall be appointed by the Minister, appointed under Article 44 of the Constitution to be in charge of the subject of Physical Planning :"

The Secretaries of the Ministries of the Ministers appointed under Article 44 of the Constitution in charge respectively of the subjects of-

- Physical planning
- Economic Planning
- Finance
- Land
- Agriculture
- Industry
- Housing
- Transport
- Highways
- Ports

- Civil Aviation
- (xii)Coast Conservation
- Environment
- Forestry
- Tourism
- Irrigation
- Power
- Home Affairs
- Provincial Councils
- Plan Implementation
- Culture
- Fisheries
- Mahaweli Development
- Plantation
- Construction

**Responsible organization/department:** National Physical Planning Department, Sri Lanka

**Contact details:**

1. **Name:** Director
2. **Telephone:** +94 (11) 5550601
3. **Fax:** +94 (11) 2872061
4. **Email:** nppd@sltnet.lk
5. **Web:** www.nppd.gov.lk
6. **Postal address:** National Physical Planning Department, 5th Floor, Sethsiripaya Battaramulla, Sri Lanka

**Information source:** Official Sources

**VIII. Short title: Tower Hall Theatre Foundation Act, No.1 of 1978**

**Full title:** An act to provide for the establishment of a foundation called the Tower Hall Theatre Foundation, to specify its objects and powers and to provide for matters connected therewith or incidental thereto

**Section/Division in charge:** Ministry of Culture and Arts, Sri Lanka

**Year of Establishment:** Established in 1911

**Amendments:** Amended by the Act, No.11 Of 1998

**Particular articles related to ICH:**

Section 6 - The aims and Foundation shall be-

- (a) to encourage and promote national theatrical activities;
- (b) to develop and improve the knowledge, understanding and practice of the Theatre;
- (c) to provide financial assistance to Theatre artistes and craftsmen, and to assist in the training of artistes ;
- (d) to engage in the production, experimentation and performance of opera, dance, drama and music; and
- (e) to restore, preserve, maintain and utilize the Tower Hall Theatre as a national monument in order to secure the objectives set out above and for such other purposes as the Board may consider fit, so however that the Theatre shall not be used for partisan political purposes

**Responsible organization/department:** Tower Hall Theatre Foundation

**Contact details:**

1. **Name:** Director General
2. **Telephone:** +94 (11) 2686088
3. **Fax:** +94 (11) 26778517
4. **Email:** towersl@sltnet.lk
5. **Postal address:** No 123, "Sausiripaya", Wijerama Mawatha, Colombo 07, Sri Lanka

**Information source:** Official Sources

**IX. Short title: Arts Council of Ceylon Act**

**Full title:** An act to provide for the and regulation of the Arts Council of Ceylon

**Section/Division in charge:** Ministry of Culture and Arts, Sri Lanka

**Year of Establishment:** 1958

**Particular articles related to ICH:**

1. *Section 2*

The general objects for which the Council is constituted are hereby declared to be

- 1) to develop a greater knowledge, understanding and practice of the fine arts.
- 2) to increase the accessibility of works an arts to the public in Sri Lanka.
- 3) to improve the standards of execution in the fine arts.
- 4) to preserve, promote and encourage the development of such arts and crafts as are indigenous to Sri Lanka; and
- 5) to advise and co-operate with Government departments, local authorities and other bodies on any matter concerned directly or indirectly with aforesaid objects

2. *Cultural Policy*

The Constitution of Sri Lanka accepts the importance of the national cultural heritage. Under the Directive Principles of State Policy and Fundamental Duties in section 27, article 10 of the constitution it is a responsibility of the state to assist the development of the cultures and the languages of the People. Although the Cultural Policy statement of the government is of recent origin (2007), the successive governments of the country since Independence have been preserving, protecting and developing cultural heritage of the country through a state mechanism which involved creation of the Ministry and Department of Cultural Affairs and related bodies devoted to divers activities in the fields of tangible as well as intangible cultural heritage. It is to be mentioned here that various Ministries and Departments created to cater for other

subjects such as education, agriculture, town and country planning, archaeology, have also been playing a considerable role in the sphere of cultural heritage of the country.

### 3. National Cultural Policy Documents

- (a) **Title:** National Cultural Policy (Cabinet Paper No. 07/1862/354/020 of 31st October, 2007, to publish the National Cultural Policy and to implement it as the National Cultural Policy of Sri Lanka)
- (b) **Purpose:** Vision of the policy: Being a proud Sri Lankan nation blessed with national heritage to go forward with the other countries of the world as a country with a unique culture that promotes development
- (c) **Mission of the policy:** To assist in building Sri Lanka as a proud nation with a unique Sri Lankan identity by facilitating the emergence of a culture that would develop all communities of the country while in the process protecting and preserving Sri Lankan national heritage
- (d) **Objectives:** (1) To build a positive cultural environment that would help direct the people on their own in a manner that would successfully accomplish the general national development of the country (2) To promote cultural diversity and thereby to prevent harm caused to positive cultural characteristics through various forces (3) To pave way to organize cultural life of the people of the country through the preservation, maintenance and utilization of cultural heritages (4) To motivate the people to identify positive cultural characteristics and thereby to promote a culture with distinct Sri Lankan identity (5) To help the people in identifying themselves the external and internal factors causing cultural downfall and in exterminating these factors (6) To pave way to inculcate in the society the fact that culture is an energetic , challenging and free force

According to the Policy statement the programme which is commonly approved by the general public from time to time will be the foundation of the cultural policy of the government policy of the government. The policy has the authority of the state as all cultural activities within

Sri Lanka are to be implemented in accordance with the Constitution of Sri Lanka and all Acts and Regulations approved by the Parliament.

The principle institution implementing the people's power in relation to all subjects relevant to culture is the Ministry of Cultural Affairs. It will intervene and also represent the subject.

The Policy seeks to ensure the Sri Lankan identity through various arts and crafts, tangible and intangible heritage, languages and literature and folk life.

Also, the Policy envisages implementing programs to protect, restore, promote and extend all forms national heritage and to maintain them for the sake of the future generations. Action would be taken to prevent all sorts of activities that would cause destruction and harm to national heritage.

In order to stimulate national pride by highlighting the cultural heritage all sorts of arts including language and literature and subjects such as technology, history, archaeology, museums, archives, would be made use a s a mechanism. Development of cultural diversity would be the final outcome of all these activities. Steps would be taken when necessary to keep national as well as international community aware of visible and invisible cultural heritage for the advancement and maintenance of Sri Lankan identity.

It is agreed by the Policy to advertise cultural heritage without causing any damage and to utilize the profits earned thereby for the economic and social development of the country.

Action would be taken to protect and develop all forms of traditional and hereditary arts and crafts and to advertise them nationally and internationally in a manner that would highlight their value.

The policy, having accepted the fact that culture is a series of activities that could be freely experienced and

participated by all the citizens, action would be taken to direct all sorts of cultural activities so as to enable the management of the cultural life of the common people in such a way that their life style is made easy and that benefits of all national and other development projects are accrued to them.

The Policy embraces all sorts of tangible and intangible cultural heritage.

#### 4. National Policy of Traditional Knowledge and Practices

In addition to the above mentioned National Cultural Policy there is a draft National Policy of Traditional Knowledge and Practices, prepared by the Biodiversity Secretariat of the Ministry of Environment and Natural Resources.

**1) Title of the Policy:** National Policy of Traditional Knowledge and Practices and Strategies (Final Draft)

**2) Purpose of the Policy:**

- i. Identification, collection, preservation and promotion of sustainable use of traditional knowledge and practices
- ii. Equal and reasonable distribution of the benefits accrued through the use of traditional knowledge and practices
- iii. Respect, make available benefits and ensure protection to trustees and users of traditional knowledge and practices
- iv. Provision of institutional framework, legal powers and resources to facilitate the coordination and implementation of relevant specific programmes for the preservation and use of traditional knowledge and practices

**3) Common Strategies for the Preservation of Traditional Knowledge and Practices:**

- i. Make all the sectors understand that it is a national need to preserve traditional knowledge and practices and inclusion into sectoral policies

- and plans activities that use traditional knowledge
- ii. Documenting documentable traditional knowledge and practices using a suitable common methodology in order to preserve it and collection and preservation of non documented knowledge
  - iii. Identifying geographical areas where traditional knowledge and practices are concentrated and collection and preservation of such knowledge and practices. Minimize development activities that may harm the knowledge culture in such specific areas.
  - iv. Study the preservation of traditional knowledge and practices in regional communities of the world with a view to decide whether such methodologies are suitable to this country and to use them in the preservation of traditional knowledge and practices
  - v. Establishment of a national centre with all necessary facilities for the preservation, use and promotion of traditional knowledge and practices
  - vi. Establishment of language laboratories to preserve local languages and folk usage that form the foundation of traditional knowledge
  - vii. Establishment of a central data system for the preservation of local languages and folk usage

Among other things, the Policy contains sections on strategies for the use of traditional knowledge and practices, strategies for the exchange of traditional knowledge and practices, strategies for the use of benefits achieved from traditional knowledge and practices, institutional strategies for the preservation and sustainable use of traditional knowledge and practices, socio-economic strategies for the preservation of traditional knowledge and practices, strategies for education and promotion of traditional knowledge and practices and strategies for legal protection of traditional knowledge and practices.

#### **4) Relevant projects:** please refer to Section C

## 5) Comments:

It is the opinion of the learned people that in order to enhance the process of developing and safeguarding cultural policies and systems, first of all a clear definition of cultural heritage is needed. Any cultural policy should be based on such a definition. The definition should cover both tangible and intangible aspects of culture. The definition should be formed taking into consideration all sorts of cultural activities and practices of the country.

Similarly, the national cultural policy should be an outcome of close coordination among different stake holders dealing with cultural heritage. This will avoid unnecessary duplication in developing and safeguarding endeavours. Cultural diversity in multi- ethnic, multi- religious, multi- lingual society in Sri Lanka should be clearly articulated in the national cultural policy of the country. Participation of masses in all such groups in developing and safeguarding cultural activities can be ensured through such a strategy.

**Responsible organization/department:** Arts Council of Ceylon

### **Contact details:**

1. **Name:** Chairman
2. **Telephone:** +94 (11) 2884027
3. **Fax:** +94 (11) 2861420
4. **Email:** artcouncil@sltnet.lk
5. **Web:** www.artcouncil.lk
6. **Postal address:** 12/1Polduwa Rd, Battaramulla, Sri Lanka

**Information source:** Official Sources