

MONUMENTS AND RELICS REGULATIONS*(section 24)**(30th December, 2016)*

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S.I. 145, 2016.

PART I
Preliminary (regs 1-2)**1. Citation**

These Regulations may be cited as the Monuments and Relics Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires'

"Collections Management Plan" means various activities done in order to achieve an objective of how to execute the management of collected materials;

"Department" means the Department of National Museum and Monuments;

"developer" means a person who seeks to undertake an infrastructural project;

"fossiliferous" means a localised area that contains a relic or relics of a fossilised nature where fossil remains have over many years taken a crystal, rock-like formation warranting its recognition as being of heritage value;

"management program" means a specific activity done to achieve a particular plan;

"mitigation proposal" means a particular plan in place to manage or carry out a particular mission;

"overnight activity" includes a recreational and vigil that take place between the hours of 6pm and 6am on any day of the week;

"paleoenvironment" means a past climate of a specific place during a specific era; and

"researcher" means a person who carries out research on a national monument, monument, site, recent artefact or relic.

PART II

Functions of officers (regs 3-4)

3. Honorary officers

(1) In accordance with section 4(3) of the Act, an honorary officer shall have the power to'

(a) report to the Commissioner, any vandalism of a monument, site, artefact or relic in his area of jurisdiction; and

(b) interrogate or question anyone who carries out any activity in a monument or site in his area of jurisdiction, and submit any information obtained from such interrogation or questioning to the Commissioner, or the Police where the honorary officer deems it necessary to do so.

(2) An honorary officer shall have the responsibility to'

(a) report to the Commissioner, any discovery of a monument, artefact or relic in his area of jurisdiction to be declared a national monument, including chance discovery during construction;

(b) report to the Commissioner, any interest by the community and the general public on declaration of a monument, artefact or relic as a national monument;

(c) identify any person who shall benefit in the adoption of a monument, site, artefact or relic in their area;

(d) collaborate with the Commissioner to raise awareness on, and funds for, the maintenance of a monument, site, artefact or relic;

(e) report to the Commissioner, any actual or potential threat posed by any development to, and lack of implementation of specific activities to manage, the monument, site, artefact or relic; and

(f) report to the Commissioner, any person who removes any artefact or relic, or any part thereof, from their original site, without the Minister's written permission issued under section 18(1) of the Act.

4. Custodians

(1) A custodian shall ensure the protection and maintenance of a monument, site, artefact and relic assigned to the custodian in terms of the management programs.

(2) A custodian shall, with the assistance of an honorary officer, report to the Commissioner any'

(a) discovery of a monument, site, artefact or relic in his area, including a discovery made during a construction;

(b) interest by the community and the general public on the declaration of a monument, artefact or relic as a national monument;

(c) vandalism of a monument, site, artefact and relic, and any threat to the monument, site, artefact and relic by a development, including indication for lack of implementation of management programs for such monument, site, artefact and relic; and

(d) person who removes any artefact or relic, or any part thereof, from their original site, without the Minister's written permission under section 18(1) of the Act.

PART III

Management, protection and preservation of national monuments, monuments and sites (reg 5)

5. Management of national monuments, monuments and sites

(1) For better management, a national monument, monument and site shall be graded according to the following criteria'

(a) Grade 1: National monument, monument, site, historic building, artefact and relic with an exceptional quality and value of a national, international or universal significance, which fulfil any of the following'

- (i) outstanding significance in the settlement history, development and history of the nation of Botswana, and contributing to the understanding of humanity,
- (ii) historic building or structure inculcating memories of political, economic or social development of Botswana, or showing the unique traditional workmanship, which is of national and international value,
- (iii) historic building or group of buildings representing a particular style or architecture in urban development, both at national and international level,
- (iv) outstanding value and symbolic importance that can promote understanding and reconstruction of human evolution, ancient life or environment, at national and international level,
- (v) authentic and outstanding aesthetic value,
- (vi) outstanding natural scenic beauty and scientific value,
- (vii) endemic or rare species that can be a window for understanding evolution, biogeography and biodiversity at national and international level,
- (viii) rare geological phenomena that can help in understanding the earth or the universe history and evolutionary trends, or
- (ix) authentic design, workmanship, diminished culture or intangible heritage;

(b) Grade 2: Monument, site, historic building and relic with a special quality that make them significant within a specific region or district, and that'

- (i) enhances the scientific, historical, cultural and social understanding of a region or district,
- (ii) has a rare biodiversity in a region or a district,
- (iii) represents important design, workmanship or diminished culture in region,
- (iv) is a historic building or structure inculcating memories of political, economical or social development of Botswana, or showing unique traditional workmanship in a region or a district,
- (v) represents ideas and values of the past and present societies that are important regionally or within a district,
- (vi) partially fulfil one or more terms of Grade 1, or
- (vii) is of economic or tourism value regionally or within a district; and

(c) Grade 3: Monument, site, historic building and relic that are worthy of conservation and are significant locally, that is, within a specific town or village, and which'

- (i) partially fulfil one or more terms of Grade 1,
- (ii) partially fulfil one or more terms of Grade 2,
- (iii) is significant to the history of a particular area or community, or
- (iv) is of economic and tourism value locally.

(2) An inspector shall formulate a conservation and management plan for a national monument, monument, historic building, site, artefact or relic under the custody of the Commissioner.

(3) The conservation and management plan made under subregulation (2) shall be formulated to guide the daily management of, and co-ordinate tourism development activities on the national monument, monument, historic building, site, artefact or relic.

PART IV

Declaration of national monuments (regs 6-8)

6. Declaration of national monuments

(1) The Commissioner may initiate a proposal to the Minister for declaration of a monument, artefact or relic as a national monument.

(2) Members of the public may propose to the Commissioner, a monument, artefact or relic for declaration as a national monument.

(3) The description of a monument, artefact or relic for declaration as a national monument shall include'

- (a) the name and location of the monument, artefact or relic;
- (b) the name of the owner of the monument, artefact or relic, if privately owned, or the name of the owner of the private property, if it is located in a private property (including a signed consent by the owner and contact details);
- (c) the type and size of the monument, artefact or relic;
- (d) the significance and value of the monument, artefact or relic;
- (e) a copy of a 1:50 000 topographical map showing the exact location of the monument, artefact or relic;
- (f) Global Positioning System co-ordinates with latitudes and longitudes properly recorded;
- (g) drawings or sketches, photographs and any other information that may assist the Commissioner in assessing the proposal;
- (h) details as to the regional, national or international value of the monument, artefact or relic;
- (i) evidence for consultation with the community regarding the proposal to enlist the monument, artefact and relic as a national monument; and
- (j) conservation status and any possible future threat.

(4) The Commissioner shall, after proposals have been made, recommend to the Minister a list of monuments, artefacts and relics proposed for declaration as national monuments.

7. Criteria for declaration of national monuments

The criteria to be used for declaration of a monument, artefact or relic as a national monument shall be'

- (a) in relation to an ancient monument or relic proposed for declaration as a national monument, shall fulfil one or more of the following requirements'
 - (i) be of significant value in the development of Botswana,
 - (ii) be of outstanding value in the settlement history of Botswana, or of the Southern African Region, and contributes to the understanding of humanity,
 - (iii) be linked to another monument of regional or international value or significance which may be outside the boundaries of Botswana,
 - (iv) be of significance in the evolution of mankind or be of value in the evolution of humankind,
 - (v) bear artefacts that could contribute to the reconstruction of ancient life,
 - (vi) be of outstanding aesthetic value,
 - (vii) be of significant cultural value or bear evidence, remains or traits of existing, diminishing or diminished cultural activities, or intangible heritage of value to a community within Botswana, or
 - (viii) be in a location or area that demonstrates or embodies the spirit of resilience and other ideals cherished or necessary for Botswana;
- (b) in relation to a recent historic monument or structure proposed for declaration as a national monument, shall fulfil one or more of the following requirements'
 - (i) has memories and messages of outstanding developments in the economic, social, political or religious history of either Southern Africa, Botswana or the people of Botswana,
 - (ii) houses an artefact or relic of national value,
 - (iii) demonstrates a masterpiece of artistic expressions,
 - (iv) be of exceptional traditional workmanship distinctive to Botswana, or
 - (v) be representative of some style or architecture in urban development in Botswana; and
- (c) in relation to any monument or relic proposed for declaration as a national monument, the fulfilment of one or more of the following requirements'

- (i) be a landscape of outstanding scenic beauty that can enhance tourism in Botswana or Southern Africa,
- (ii) has caves with secondary formation or fossil deposits for reconstruction of the paleoenvironment,
- (iii) has a fossiliferous formation that is essential in reconstruction of paleoenvironmental conditions as well as evolutionary trends,
- (iv) has a water body that could contribute to underground water processes or sustain rare plants and animal species,
- (v) has a rare geographical phenomena that could help in understanding the earth's history and peculiar geographical processes,
- (vi) be in an area of rare biodiversity that could contribute to understanding the extant life diversity,
- (vii) be in an area with endemic plant species for understanding of evolution and biogeography,
- (viii) has plants of historical importance as landmarks for tracing human history,
- (ix) has a plant of a significant nature for understanding the anatomy of a particular species, or
- (x) has a locality of endemic animal species for reconstruction of the biogeography and evolutionary processes.

8. Delisting of national monuments

- (1) The Commissioner may recommend to the Minister for the delisting of any national monument'
 - (a) that no longer fulfils the criteria against which it was declared a national monument;
 - (b) that has been destroyed; or
 - (c) whose integrity has been compromised.
- (2) The description of a national monument recommended for delisting shall include the following'
 - (a) name and location of a declared national monument;
 - (b) nature and degree of disturbance or compromised integrity;
 - (c) photograph of current status, accompanied by sketches or maps of the location of the affected national monument; and
 - (d) detailed report of the steps undertaken to mitigate the threat to the national monument, and an account of why the mitigation measures are considered unworkable.
- (3) The Minister may, upon evaluation of the recommendation referred to in subregulation (1), approve or disapprove the delisting of a national monument.
- (4) Where the Minister approves the delisting of a national monument, he may, by Order published in the *Gazette*, declare the national monument to be delisted.

PART V

Controlled access to, excavation of, national monuments, monuments and sites, and management of collected artefacts (regs 9-13)

9. Controlled access to national monuments

- (1) Any person who wishes to enter a national monument whose access requires the permission of the Commissioner or a person authorised by him under section 15 of the Act, shall make an application in Form A set out in Schedule 1 to the Commissioner or the person authorised by him, indicating'
 - (a) his name, address and all the necessary contact details;
 - (b) a short description of the national monument where access is required;
 - (c) a detailed description of activities to be undertaken at the national monument;
 - (d) the period for which the permit is required; and
 - (e) if applicable, the collaborating institution in Botswana, with a covering letter from that institution indicating the benefits of the proposed undertaking to Botswana.
- (2) Where the Commissioner or the person authorised by him, grants permission, he shall issue a permit in Form B set out in Schedule 1 and may impose any conditions of entry thereon.

(3) A permit shall only be issued for activities that comply with the Act.

(4) A person who wishes to enter a national monument for purposes of reproducing the particular national monument in any form, shall apply to the Commissioner or a person authorised by him to grant permission, in writing indicating the purpose for access to such national monument.

(5) The Commissioner or the person authorised by him to grant permission may, upon granting permission for purposes of subregulation (4) impose any condition including the right to evaluate the reproduced product before publication.

(6) Five copies of the product reproduced under subregulation (4) shall be submitted to the Commissioner for distribution to the relevant institution.

(7) Where an application made under subregulation (1) relates to a national monument which is privately owned or located in a private property, the Commissioner or a person authorised by him, may issue a permit in Form C set out in Schedule 1 after consultation with the owner of the private property.

(8) Any application made to enter a Grade 1 national monument under this regulation shall be accompanied by a fee set out in Schedule 3.

10. Excavations on monuments and sites

(1) An application for a permit to excavate shall be made in Form D set out in Schedule 1 and shall include the following information'

- (a) the name, address and all the necessary contact details of the applicant;
- (b) a short description of the site or sites where the excavation is to be conducted;
- (c) a detailed description of activities to be undertaken at the site; and
- (d) the period for which the permit is required.

(2) Where the application complies with the requirements under subregulation (1), the Minister may issue a permit in Form E set out in Schedule 1.

(3) The Minister may issue the permit referred to in subregulation (2) only to a'

- (a) professional who, in the Minister's opinion, has the necessary qualifications, or
- (b) person who, in the Minister's opinion, has the necessary qualifications and appropriate expertise.

(4) Where the intended excavation relates to a national monument, monument, historic building, artefact or relic privately owned or located in a private property, any arrangement made by an applicant in relation to the excavation to be made shall be made with the written consent of the owner.

(5) An excavation emanating from unplanned research, such as rescue archaeology and its associated impact assessment process shall be preceded by an application for a permit to excavate as specified under subregulation (1).

(6) The approval and recommendations by the Commissioner of an impact assessment process shall not automatically approve any proposed excavation.

(7) An application for excavation under subregulations (4) and (5) shall be accompanied by a detailed mitigation proposal.

(8) Upon the approval of the mitigation proposal from the impact assessment process, the applicant under subregulations (4) and (5) shall apply for a permit to excavate, providing in the application, the requirements set out in subregulation (1).

(9) A researcher who has a valid research permit shall not be required to apply separately for a permit to excavate unless the method the researcher is to use for research in the original research permit does not include excavation.

11. Management of collected artefacts

(1) Any artefact collected during an excavation shall be placed in a container and deposited with the Department upon completion of the analysis of the artefact, including identifying the composition of the artefact.

(2) A product of research and excavation of an artefact or relic shall remain the property of the Government of Botswana.

(3) A person who intends to temporarily house or display an artefact for research purposes shall be required to produce a Collections Management Plan which shall include the following'

(a) a detailed description of the artefact collected, including counts and weights, and conservation status of such artefact;

(b) storage management of the collected artefact indicating documentation, maintenance and conservation strategies to be employed; and

(c) the period of loan and the location of the intended destination of the collected artefact.

(4) An application for a temporary housing or display of a collected artefact for purposes of research, or for temporary exhibition and displays, shall include the contact details of the applicant, and shall be in Form F set out in Schedule 1.

(5) An applicant shall employ the following documentation strategy for a collected artefact'

(a) the name of the collected artefact;

(b) the name of the place where the collected artefact was found; and

(c) the name of the researcher and the monument.

(6) The Commissioner, or a person authorised by him, shall inspect the premises where a collected artefact is to be housed.

(7) The Commissioner shall, after conducting the inspection referred to in subregulation (6), cause the collected artefact to be deposited with him where the premises housing such collected artefact fails to pass the required minimum standards set out in Schedule 2.

12. Research on monuments, sites and collected artefacts

(1) An application for a research permit shall be made in Form G set out in Schedule 1, and upon approval, the Minister may issue a permit in Form H set out in Schedule 1.

(2) A person shall not pass to a third party any collected artefact without the permission of the Minister, and shall adhere to the requirements and conditions for the removal or export of the collected artefact in accordance with section 18 of the Act.

(3) Any person who has a permit to access a private property for purposes of research shall do so with prior written approval of the owner of that property.

(4) A research proposal shall be submitted by such person to the Commissioner for approval.

(5) A research method employed under this regulation shall be in accordance with a research proposal approved by the Commissioner.

(6) A researcher shall, when carrying out a research on a monument, site or collected artefact'

(a) properly record the monument, site or collected artefact in a field record sheet;

(b) map the monument or site using Global Positioning System; and

(c) give the monument, site or collected artefact arbitrary numbers.

(7) Where the Commissioner finds the research method to be destructive, a preliminary environmental impact assessment made by the researcher, in accordance with the provisions of the Environmental Assessment Act (Cap. 65:07), shall precede that research.

(8) A researcher shall submit to the Commissioner and the relevant institutions, a progress report of each stage of the research process within two months of the completion of each stage.

(9) The Commissioner may, by Notice, cause the results of the final report of a research to be published in the newspaper or *Gazette*, and displayed in a conspicuous manner at the Department offices.

(10) Upon publication of the results, the researcher shall deposit at least one copy of the published results with the Commissioner within six months of the publication.

(11) The Minister may refuse to grant any future applications made by a researcher, where that researcher fails to comply with the provisions of subregulations (8), (9) or (10).

(12) For the purposes of subregulation (7), "**destructive**" means a research method that allows for an artefact to be destroyed for the efficient micro-analysis of a specimen.

13. Export of artefacts

(1) A researcher who has a valid research permit and who wishes to loan from the Government, and export, any artefact or relic, or any part thereof, shall make an application to the Commissioner in Form I set out in

Schedule 1 for an export permit, 30 days before the date of the export.

(2) An application made under subregulation (1) shall include a'

(a) copy of an approved research permit indicating that the proposed research cannot be done locally; and

(b) detailed documentation of the materials including a brief description, photographs, sketches and weights of the materials.

(3) Where the application is for the export of artefacts in large quantities resulting in the description of the artefacts being cumbersome, the documentation of such artefacts may be done in the form of a database that captures adequate information about the artefacts.

(4) The Minister may, where the applicant meets the requirements of this regulation, issue an export permit in Form J set out in Schedule 1.

(5) The loan referred to in subregulation (1) shall be'

(a) made by the Commissioner;

(b) for a period not exceeding 12 months; and

(c) renewable after the lapse of the duration of the loan.

(6) Where the period of the loan of an artefact exported expires, a researcher shall make an application to renew the permit to export to the Minister 30 days before the expiry of such export permit.

(7) A researcher shall return to Botswana, an artefact that he has exported at his expense'

(a) in the state in which the artefact was when it was loaned to the researcher;

(b) intact and capable of being used again;

(c) upon the expiration of the duration of the loan or of the permit;

(d) if the artefact has been vandalised, and the vandalism shall be reported to the police of the country where the artefact was exported to;

(e) if the artefact is not kept well; or

(f) if the artefact is being used for the purpose other than for which it was exported.

(8) The Commissioner shall, where the researcher returns an artefact in accordance with subregulation (7), inspect the artefact in order to ensure that the conditions of the export permit are observed.

(9) A researcher who'

(a) fails to return an artefact in accordance with subregulation (7);

(b) returns an artefact in a damaged form; or

(c) returns a vandalised artefact and has not reported the vandalism to the police of the country where the artefact was exported to in accordance with subregulation (7)(d),

commits an offence and is liable to a fine not exceeding P10 000 or to imprisonment for a term not exceeding one year, or to both, and shall be barred from accessing artefacts and from exporting artefacts.

PART VI **Fees (reg 14)**

14. Fees

(1) Any person who wishes to enter into a monument or site shall pay the fees set out in Schedule 3 to the Department.

(2) Any person who wishes to camp or undertake any overnight activity, including a recreational activity and a vigil, at a monument or site shall pay the fees set out in Schedule 3.

(3) Any person who wishes to film or do any activity which involves the reproduction of a monument or site shall pay the fees set out in Schedule 3.