

**THE BALOCHISTAN CULTURE HERITAGE PRESERVATION
ACT, 2010**

(Baln Act X of 2010)

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(Baln Act X of 2010)

¹ This Act was passed by the Balochistan Assembly on 1st July, 2010: assented to by the Governor of Balochistan on 5th July, 2010: published in the Balochistan Gazette (Extraordinary) No. 71, dated 13th July, 2010.

[13th July, 2010]

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.

Preamble.

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:—

Short title, extent and commencement.

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.

Definitions.

2. 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 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
Committee.

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

- (a) a Chairman; and
- (b) six member:

Provided that out of six members, the Committee, 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 addressing 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.

Reference to
Government on
an issue of
historical
interest.

4. If 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.

Custody
preservation
etc, of
premises

5. Where the Committee receive 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.

Declaration of Protected Heritage.

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.

(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 withdraw, 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.

Acquisition of right or guardianship of a protected heritage of the Government.

7. (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 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.

Agreement for
Preservation of
a Protected
Heritage.

8. (1) The Committee may, with the previous sanction of the Government propose to the owner for entering into an agreement with the Government for the preservation of any 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 deputed 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 to 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.

Owners under
Disability.

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 owners under section 8.

(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.

Application of
agreement
endowment to
repair of a
Protected
Heritage.

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 Committee may, institute a 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 subsection (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 of the endowment or of any part thereof, and any such order may be excused as if it was the decree of Civil Court.

Compulsory acquisition of Protected Heritage.

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 subsection (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.

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.

Relinquishment of Government right in a Protected Heritage.	<p>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:</p> <p style="margin-left: 40px;">(a) relinquish the rights so acquired in favour of the person, who for the time being is the owner of such heritage; or</p> <p style="margin-left: 40px;">(b) relinquish any guardianship of a Protected Heritage, which it was accepted under this Act.</p>
Right of access to certain Protected Heritage.	<p>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.</p> <p style="margin-left: 40px;">(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.</p>
Penalty.	<p>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.</p>
Overriding effect.	<p>16. The provision of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.</p>
Rules.	<p>17. The Government may make rules to carry out the purpose of this Act.</p>
Indemnity.	<p>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.</p>