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AN ACT TO MAKE PROVISION FOR THE CONSERVATION, ENHANCEMENT AND ENJOYMENT OF GIBRALTAR'S HERITAGE, ANTIQUITIES AND OBJECTS OF ARCHAEOLOGICAL INTEREST, FOR THE PRESERVATION OF MONUMENTS, BUILDINGS, HISTORICAL CONSERVATION AREAS AND ARCHAEOLOGICAL AREAS, TO ESTABLISH THE HERITAGE AND ANTIQUITIES ADVISORY COUNCIL, TO PROVIDE FOR THE MANAGEMENT OF THE GIBRALTAR NATIONAL MUSEUM AND THE GIBRALTAR NATIONAL ARCHIVES, TO PROVIDE FOR THE CONTINUED EXISTENCE OF THE GIBRALTAR HERITAGE TRUST AND FOR CONNECTED MATTERS.

**PART 1
PRELIMINARY**

Short title.

1. This Act may be cited as the Heritage and Antiquities Act 2018.

Commencement.

- 2.(1) This Act comes into operation on such day as the Minister may appoint by notice in the Gazette.

(2) Different dates may be appointed under subsection (1) for different provisions and different purposes.

Interpretation.

3. In this Act, unless the context otherwise requires–

“antiquity or object of interest” means–

- (a) any object, whether movable or part of immovable property, which is a work of architecture, sculpture, graphic art, painting or any form of art or craftsmanship;
- (b) any object of historical, geographical, geological, scientific or technical value or interest, which has been created by human effort, and which has been, or is generally thought to have been, in existence for more than 50 years;
- (c) any object which by reason of its archaeological interest or of its association with any historical event, has a value substantially greater than its intrinsic (including artistic) value and includes ancient human, animal or plant remains; or

(d) any object declared by the Minister in consultation with the Council to be an antiquity or object of interest for the purposes of this Act,

which has a connection to Gibraltar.

“Archaeological Officer” means the archaeologist appointed under section 30;

“Archivist” means the archivist appointed under section 39;

“community sentence” shall have the meaning ascribed to it in section 2(1) of the Criminal Procedure and Evidence Act 2011;

“conservation and archaeological areas” shall mean areas which have been listed as either a scheduled historical conservation area under section 19(1) or as an archaeological area under section 24(1);

“Council” means the Heritage and Antiquities Advisory Council established under section 6;

“Curator” means the curator of the Museum appointed under section 32;

“Minister” means the Minister with responsibility for heritage;

“monument or building” has the meaning assigned to it in section 11(1);

“site of monument or building” has the meaning assigned to it in section 11(2);

“Museum” means the Gibraltar National Museum;

“Nature Conservancy Council” means the Nature Conservancy Council established under section 20 of the Nature Protection Act 1991;

“public area” excludes any land, premises or dwelling which is owned or occupied by any natural or legal person or any land, premises or dwelling in which a natural or legal person may have a legal interest;

“seabed” means the seabed within the seaward limits of territorial waters;

“scheduled archaeological area consent” means a consent granted under section 25(4);

“scheduled historical conservation area consent” means a consent granted under section 20(3)(a);

“scheduled monument or building consent” means a consent granted under section 15(3)(a);

“territorial waters” means British Gibraltar Territorial Waters which is the area of sea, the seabed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar.

Application of the Act.

4. This Act shall apply to—

- (a) antiquities or objects of interest;
- (b) scheduled monuments or buildings;
- (c) scheduled historical conservation areas and scheduled archaeological areas; and
- (d) archaeological or historical areas of interest not scheduled under this Act,

in Gibraltar, whether on land or in territorial waters.

Title to antiquities or objects of interest.

5.(1) Notwithstanding the repeal of the Gibraltar Heritage Act 1989 with the coming of force of this Act, title to every—

- (a) antiquity or object of interest; or
- (b) monument or building,

discovered on a public or privately owned area or within territorial waters shall continue to be vested in the Crown in right of the Government of Gibraltar.

(2) The Minister may by regulations provide for the payment of compensation where a person has a legal right over an antiquity, object of interest, monument or building referred to in subsection (1) which is compulsorily acquired by virtue of that subsection.

(3) Regulations made under subsection (2) may include provision where compensation will not be paid and for title to pass to the appropriate legal owner.

(4) Regulations under subsection (2) must be made before subsection (1) is relied upon in connection with a discovery in a privately owned area.

PART 2 HERITAGE AND ANTIQUITIES ADVISORY COUNCIL

The Heritage and Antiquities Advisory Council.

6.(1) There is established a council to be known as the Heritage and Antiquities Advisory Council (“the Council”).

(2) The provisions of Schedule 1 shall have effect with respect to the constitution and proceedings of the Council.

(3) The Minister may after consultation with the Council, by order published in the Gazette, amend or vary the provisions contained in Schedule 1.

Functions of the Council.

7.(1) The functions of the Council are—

- (a) to make its views known to the Minister on how to promote and secure the conservation, protection and enhancement of Gibraltar’s heritage, antiquities or objects of interest, monuments or buildings, and historical conservation and archaeological areas;
- (b) to foster understanding and facilitate the enjoyment of Gibraltar’s heritage, antiquities or objects of interest, monuments or buildings, and historical conservation and archaeological areas;
- (c) to advise on anything which is to be done in relation to antiquities or objects of interest, monuments or buildings or historical conservation and archaeological areas, including advice that such activity always be carried out in a sustainable manner by a suitably qualified person;
- (d) to identify present and future issues which require or may require addressing in relation to heritage, antiquities or objects of interest, monuments or buildings and historical conservation and archaeological areas; and
- (e) to consult owners of monuments or buildings.

(2) The Council shall advise the Minister on matters relating to heritage, antiquities or objects of interest, monuments or buildings, historical

conservation and archaeological areas it wishes to or which the Minister may refer to the Council.

Council to take account of certain matters.

8. It shall be the duty of the Council, in carrying out its functions under section 7(1) and (2), to take account, as may be appropriate, of—

- (a) actual or possible ecological and other environmental changes affecting heritage, antiquities or objects of interest, monuments or buildings and historical conservation and archaeological areas;
- (b) the need for social, cultural and economic changes in Gibraltar;
- (c) the interests of the community in general.

Advisory committees.

9.(1) The Minister may, after consultation with the Council, appoint other advisory committees which shall have the function of giving advice to the Council on such matters as may be specified in the instrument of appointment, concerning heritage, antiquities or objects of interest, monuments or buildings and historical conservation and archaeological areas.

(2) The Minister shall appoint a chairman for any advisory committee appointed under subsection (1) and members of such a committee shall be appointed from among persons, who may or may not be members of the Council, having appropriate and industry recognised qualifications or recognised experience in relation to the specific areas relevant to the advice required by the Council.

(3) The chairman and members of such advisory committee shall be appointed upon such terms and for such periods as the Minister may determine, which appointment shall not exceed 2 years.

(4) The appointment of any member to an advisory committee appointed under subsection (1) shall become effective by publication in the Gazette.

(5) The Minister may give directions to any advisory committee as to its procedure.

Annual Reports.

10.(1) The Council shall prepare and submit to the Minister, an annual report on the performance of its functions during the twelve months preceding the date of the report.

(2) The Minister shall lay a copy of the annual report before Parliament as soon as practicable after it has been received by him.

PART 3
PROTECTION OF MONUMENTS AND BUILDINGS

Interpretation of monument or building, etc.

11.(1) For the purposes of this Act “monument or building” means–

- (a) any artificial or partly artificial building, structure, wall, erection, vessel, wreck or work;
- (b) any stone or other natural product, whether or not forming part of the ground, which has been artificially carved, sculptured or worked upon or which appears to have been purposely put or arranged in position;
- (c) any part of any prehistoric or ancient tomb, grave or burial ground or any ritual or habitation site; or
- (d) any ordnance or other piece of armament whether or not fixed or forming part of any structure or wall which is a battlement;

which is of historical, geographical, geological, scientific or technical value or interest, whether situated above or below the surface of ground.

(2) For the purposes of this Act, and subject to subsection (3), “site of monument or building” means–

- (a) any cave of historical, geographical, geological, scientific or technical value or interest whether situated above or below the surface of the ground or excavation;
- (b) any site where a monument or building or a group of monuments or buildings are located or the site of the remains of any monument; or
- (c) any site comprising, or comprising the remains of any movable structure or part thereof which neither constitutes nor forms part of any work which is a monument or building within subsection (1) above situated on land or on the seabed.

(3) References in this Act to a “site of monument or building” shall not only consist of the land or seabed in or on which it is situated but also any land or seabed comprising or adjoining or below it which the Minister, after

consultation with the Council, determines to be essential for the support and preservation of the monument or building.

(4) For the purposes of this section “battlement” includes gun embrasures in tunnels.

Scheduled monuments or buildings.

12.(1) For the purposes of this Act, and subject to subsection (2), monuments or buildings, or sites of monuments or buildings, which conservation and protection are of importance shall be “scheduled monuments or buildings” and are listed in Schedule 2.

(2) Schedule 2 shall be in such form as prescribed by the Minister and accompanied by such plans as deposited at the offices of the Minister with responsibility for heritage.

(3) Subject to subsection (4), the Minister may, by order published in the Gazette, amend Schedule 2 by—

- (a) including any monument or building or site of monument or building;
- (b) removing any scheduled monument or building; or
- (c) by amending the entry relating to any scheduled monument or building to vary the name or description or any other particulars of the monument or building or site of monument or building.

(4) Before making an order under subsection (3), the Minister shall consult with—

- (a) the Council;
- (b) any other person or body as appears to him to have special knowledge of monuments or buildings or site of monument or building; and
- (c) in such cases where there may be ecological or other environmental implications, the Nature Conservancy Council.

(5) In considering whether to recommend the inclusion of a monument or building or site of monument or building in Schedule 2, the Council shall take into account not only the importance of the monument or building or site of monument or building itself in accordance with subsection (3)(a), but also—

- (a) any respect in which its exterior contributes to the architectural, historic or natural interest of any group of monuments or buildings of which it forms part; and
- (b) the desirability of preserving, on the ground of its architectural, historic or natural interest, any feature of the monument or building or site of monument or building consisting of a man-made object or structure fixed to the monument or building or forming part of the land and comprised within the curtilage of the monument.

Monuments or buildings on the seabed.

13.(1) A monument or building situated in, on or under the seabed (referred to in this section as a “monument or building on the seabed”) may be included in Schedule 2 and the provisions of this Part shall extend accordingly to any such monument or building provided it is a scheduled monument or building.

(2) The entry in Schedule 2 relating to any monument or building on the seabed shall describe the monument or building (as the case may be) as being “on the seabed”.

(3) In relation to any monument or building on the seabed, references in this Part to land in or on which a monument or building is situated and to any land comprising or adjoining the monument or building, or the monument or building, shall include references to any part of the seabed for any such purpose relating to the monument or building.

Damage to scheduled monuments or buildings.

14.(1) Any person who intentionally or recklessly does or permits any of the following acts in relation to a scheduled monument or building shall be guilty of an offence—

- (a) demolish, destroy or remove the scheduled monument or building, wholly or in part;
- (b) disfigure, deface, alter or in any manner damage or interfere with the scheduled monument or building;
- (c) write, draw, paint or carve any drawing, writing or figure whether indecent or not on the scheduled monument or building;
- (d) place, leave or deposit any refuse, rubbish or litter in or on a scheduled monument or building;

- (e) excavate, dig, plough or otherwise disturb the ground within, around, or on the site of the scheduled monument or building; or
- (f) erect, build or place on or against any such scheduled monument or building any erection, building or other structure; or
- (g) enclose any such scheduled monument or building or any part thereof.

(2) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

(3) Where a person is convicted of an offence under this section, the court by whom he is so convicted may, at the time of such conviction, and in addition to any penalty imposed under this section, order such person to pay to the Government such sum as the court shall fix as the reasonable cost of repairing the damage done to such scheduled monument by the commission of the offence and such sum shall be recoverable as a civil debt.

Control of works affecting scheduled monuments or buildings.

15.(1) Any person who executes or causes to be executed any works on a scheduled monument or building to which this section applies shall be guilty of an offence unless the works are authorised under this section.

(2) This section applies to any of the following works—

- (a) any works resulting in the demolition or destruction of or any damage to a scheduled monument or building;
- (b) any works for the purpose of removing or repairing a scheduled monument or building or any part of it or of making any alterations or additions thereto; and
- (c) any flooding or tipping operations on the site of or on land in, on or under which there is a scheduled monument or building.

(3) Works to which this section applies shall be authorised works if—

- (a) the Minister has granted the person who will carry out the works written consent for the execution of works on a scheduled monument or building (“scheduled monument or building consent”); and
- (b) the works are executed in accordance with the terms and conditions attached to the consent.

(4) Before granting scheduled monument or building consent, the Minister shall consult with—

- (a) the Council;
- (b) the Gibraltar Heritage Trust;
- (c) any other person or body as appears to him to have special knowledge of, or interest in antiquity or object of interests;
- (d) in such cases where there may be ecological or other environmental implications, the Nature Conservancy Council; and
- (e) the owner of a scheduled monument or building.

(5) A condition attached to a scheduled monument or building consent may require that a person authorised by the Minister, after consultation with the Council, be afforded an opportunity, before any works to which the consent relates are begun, to examine the scheduled monument or building and carry out such excavations therein as appear to the Council to be desirable for the purpose of archaeological investigation within a period of 14 days or such other period as the Minister deems appropriate.

(6) A condition attached to a scheduled monument or building consent may require that a person authorised by the Minister, after consultation with the Council, be allowed access to any monument or building or site of monument or building, before, during or after any works to which the consent relates are begun, to examine and inspect the scheduled monument or building.

(7) Any person authorised by the Minister, after consultation with the Council, when exercising a right afforded by subsection (5) or (6), shall produce documentary evidence of his authorisation granted by the Minister.

(8) Without prejudice to subsection (1), if a person executing or causing or permitting to be executed any works to which a scheduled monument or building consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence.

- (9) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
 - (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

(10) Where a person is convicted of an offence under this section, the court by whom he is so convicted may, at the time of such conviction, and in addition to any penalty imposed under this section, order such person to pay to the Government such sum as the court shall fix as the reasonable cost of repairing the damage done to such scheduled monument by the commission of the offence and such sum shall be recoverable as a civil debt.

Modification of scheduled monument or building consent.

16.(1) If it appears to the Minister—

- (a) upon receipt of information from the holder of scheduled monument or building consent or any other person; or
- (b) following a report submitted by the Council or otherwise,

that it is expedient to modify or revoke any scheduled monument or building consent, he may after consulting the Council and where appropriate the Nature Conservancy Council, modify or revoke said consent.

(2) The Minister shall modify or revoke scheduled monument or building consent by notice in writing to the person who has been granted the consent.

(3) The power conferred by this section to modify a scheduled monument or building consent in respect of any works may be exercised at any time before those works have been completed, but the modification shall not affect so much of those works as have been previously carried out.

Urgent preservation.

17.(1) If it appears to the Minister, that any remedial works are urgently necessary for the preservation of a scheduled monument or building, he may grant scheduled monument or building consent for the execution of any works specified in the consent which appear to be urgently necessary for the preservation of the monument or building or the site of monument or building.

(2) The works which may be executed under this section may consist of or include works for affording temporary support or shelter for the scheduled monument or building.

(3) Any costs incurred under this section may be recoverable from the owner of the scheduled monument or building as a civil debt.

Placing of tablets.

18. The Minister may, after consultation with the Council, cause to be placed or affixed on a scheduled monument or building a tablet, plate, placard or inscription, or other notice containing information relevant to the scheduled monument or building.

PART 4 HISTORICAL CONSERVATION AREAS

Scheduled historical conservation areas.

19.(1) For the purposes of this Act, areas of important architectural or historic interest listed in Schedule 3 shall be “scheduled historical conservation areas”.

(2) The Minister may by order published in the Gazette, amend Schedule 3 by—

- (a) including any area which is of importance by reason of the architectural or historic interest attaching thereto;
- (b) removing any scheduled historical conservation area; or
- (c) amending the entry relating to any scheduled historical conservation area to vary the description or the particulars of the conservation area.

(3) Before making an order under subsection (2), the Minister shall consult with—

- (a) the Council;
- (b) the Gibraltar Heritage Trust;
- (c) in cases where there may be ecological and environmental implications the Nature Conservancy Council; and
- (d) any other person or body as appears to him to have special knowledge of historical conservation areas.

(4) The Minister, after consultation with the Council, may, from time to time, publish proposals for the preservation and enhancement of scheduled historical conservation areas.

Control of demolition in scheduled historical conservation areas.

20.(1) Any person who executes or causes to be executed any demolition of a structure in a scheduled historical conservation area shall be guilty of an offence unless the works are authorised under this section.

(2) If it comes to the attention of the Minister, on a report submitted by the Council or otherwise, that any demolition of a structure in a scheduled historical conservation area is being carried out, he may take proceedings for the purpose of securing an injunction to interdict and prohibit that demolition from continuing.

(3) Works to which this section applies are authorised under this section if—

- (a) the Minister has granted the person who is to execute the demolition written consent for the execution of the demolition (“scheduled historical conservation area consent”); and
- (b) the demolition is executed in accordance with the terms and conditions attached (if any) to the scheduled historical conservation area consent.

(4) Before granting scheduled historical conservation area consent under subsection (3), the Minister shall consult with—

- (a) the Council; and
- (b) any other person or body as appears to him to have special knowledge of historical conservation areas.

(5) A condition attached to a scheduled historical conservation area consent may require that a person authorised by the Minister, after consultation with the Council, be afforded an opportunity, after the conclusion of the demolition to which the consent relates, to examine the demolition site and carry out such excavations or structural recording therein as appear to the Council to be desirable for the purpose of archaeological investigation within a period of 14 days or such other period as the Minister deems appropriate.

(6) A condition attached to a scheduled historical conservation area consent may require that a person authorised by the Minister, after consultation with the Council, be allowed access to any scheduled historical conservation area, before, during or after any demolition to which the

consent relates is begun, to examine and inspect the scheduled historical conservation area.

(7) Any person authorised by the Minister, after consultation with the Council, when exercising a right afforded by subsection (5) or (6), shall produce documentary evidence of his authorisation granted by the Minister.

(8) Without prejudice to subsection (1), if a person executing or causing or permitting the demolition to which a scheduled historical conservation area consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence.

(9) A person guilty of an offence under this section shall be liable-

- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

(10) Where a person is convicted of an offence under this section, the court by whom he is so convicted may, at the time of such conviction, and in addition to any penalty imposed under this section, order such person to pay to the Government such sum as the court shall fix as the reasonable cost of repairing the damage done to such scheduled monument by the commission of the offence and such sum shall be recoverable as a civil debt.

Urgent works to preserve unoccupied buildings in scheduled historical conservation areas.

21.(1) If it appears to the Minister, on a report submitted by the Council or otherwise, that the preservation of an unoccupied structure in a scheduled historical conservation area is important for maintaining the character or appearance of that area, he may direct that any works specified in a scheduled historical conservation area consent which appear to him to be urgently necessary for the preservation of the unoccupied structure may be executed.

(2) The works which may be executed under this section may consist of or include works for affording temporary support or shelter for the structure.

(3) If the structure is partly occupied, works may be carried out only to those parts which are not in use.

(4) If the works are not executed by the owner at the Minister's request, the works shall be undertaken by the Government of Gibraltar and any costs

incurred under this section may be recoverable from the owner of the scheduled monument or building as a civil debt.

Modification of scheduled historical conservation area consent.

22.(1) If it appears to the Minister-

- (a) upon receipt of information from the holder of scheduled historical conservation area consent or any other person; and
- (b) following a report submitted by the Council or otherwise,

that it is expedient to modify or revoke any scheduled historical conservation area consent, he may after consulting the Council and where appropriate the Nature Conservancy Council, modify or revoke said consent.

(2) The Minister shall modify or revoke scheduled historical conservation area consent by notice in writing to the person who has been granted the consent.

(3) The power conferred by this section to modify a scheduled historical conservation area consent in respect of any operation may be exercised at any time before those operations have been completed, but the modification shall not affect so much of those operations as have been previously carried out.

**PART 5
ARCHAEOLOGICAL AREAS AND FINDINGS**

Interpretation of operations on any site on land, etc.

23.(1) In this Act-

- (a) references to “operations on any site on land” include references to operations in, under or over the land in question;
- (b) references to the “clearance of any site” are references to the demolition and removal of any existing building or other structure on the site and any fixtures and fittings and the removal of any other materials on that site so as to clear the surface of the land (but do not include the levelling of the surface or the removal of materials from below the surface);
- (c) references to the “clearance of any site on the seabed” are references to the demolition and removal of any structure on the site and the removal of any other materials on that site so as

to clear the surface of the seabed (but do not include the levelling of the seabed);

- (d) references to “clearance operations” are references to operations undertaken for the purpose of or in connection with the clearance of any site on land or on the seabed.

Scheduled archaeological areas.

24.(1) For the purposes of this Act, areas of important archaeological interest listed in Schedule 4 shall be “scheduled archaeological areas”.

(2) The Minister may, by order published in the Gazette, amend Schedule 4 by—

- (a) including any area which is of importance by reason of the archaeological interest attaching thereto;
- (b) removing any scheduled archaeological area; or
- (c) amending the entry relating to any scheduled archaeological area to vary the description of the archaeological area.

(3) Before making an order under subsection (2), the Minister shall consult with—

- (a) the Council;
- (b) the Museum;
- (c) in such cases where there may be ecological or other environmental implication, the Nature Conservancy Council; and
- (d) any other person or body as appears to him to have special knowledge of archaeology.

Operations in scheduled archaeological areas.

25.(1) Any person who executes or causes to be executed within a scheduled archaeological area any of the following operations—

- (a) operations which disturb the ground;
- (b) flooding operations; or
- (c) tipping operations;

shall be guilty of an offence.

(2) Any person who executes or causes to be executed within the seabed of a scheduled archaeological area any of the following operations–

- (a) operations which disturb the ground; or
- (b) tipping operations,

shall be guilty of an offence.

(3) Any person who knows or has reasonable grounds for believing that any antiquity or object of interest has been excavated, removes such object from any scheduled archaeological area shall be guilty of an offence.

(4) Subsections (1) to (3) shall not apply to any operation for which consent (“scheduled archaeological area consent”) has been granted by the Minister under this section.

(5) Before granting scheduled archaeological area consent, the Minister shall consult with–

- (a) the Council; and
- (b) any other person or body as appears to him to have professionally recognised qualification in archaeology.

(6) A scheduled archaeological area consent shall specify–

- (a) the operations to which it relates;
- (b) the area on land or on the seabed on which the operations are to be carried out;
- (c) the date on which it is proposed to begin the operations;
- (d) where the operations are to be carried out after clearance of the area, an estimated date for completion of the clearance operations; and
- (e) the terms and conditions under which the operations must be executed which shall include–
 - (i) that the holder of a consent must take all reasonable measures for the preservation of antiquities or objects of interests discovered by him, and where the circumstances so require, reasonable measures shall be deemed to have

been taken when specialists in preservation are contracted to undertake such preservation;

- (ii) that the holder of a consent must keep a detailed record, to be undertaken by specialists in the field, of the operations and excavations conducted and must, as far as reasonably practicable, allow the taking photographs of the site and anything therein;
- (iii) that all antiquities or objects of interests discovered, records kept and photographs taken during the operations, along with any excavation or other report produced prior or subsequent to any operations, shall vest in the Government.

(7) Without prejudice to subsections (1) to (3), if a person executing or causing or permitting the execution of the operations to which a scheduled archaeological area consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence.

(8) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

Qualifications for archaeological operations.

26. The Minister shall not grant a scheduled archaeological area consent to a person unless he is satisfied, after consultation with the Council that the person—

- (a) has the required professional qualifications, training and experience from a recognised, professional body or institution; and
- (b) is competent to carry out the proposed operations in accordance with the most recent scientific methods.

Control of archaeological operations.

27. If it appears to the Minister, on a report submitted by the Council, the Museum or otherwise, that—

- (a) any operations are being, or are about to be, carried out on any site on land or on the seabed; and
- (b) the site contains or is likely to contain antiquity or object of interests which will be disturbed, damaged, destroyed or removed without proper archaeological investigation if operations are carried out on the site,

the Minister may, after having taken legal advice and considered issues related to public interest, public safety, public health and/ or public emergency, take proceedings for the purpose of securing an injunction to interdict and prohibit those operations from being carried out.

Modification of scheduled archaeological area consent.

28.(1) If it appears to the Minister-

- (a) upon receipt of information from the holder of scheduled monument or building consent or any other person; and
- (b) following a report submitted by the Council, Museum or otherwise,

that it is expedient to modify or revoke any scheduled archaeological area consent, he may after consulting the Council, Museum and where appropriate the Nature Conservancy Council, modify or revoke said consent.

(2) The Minister shall modify or revoke scheduled archaeological area consent by notice in writing to the person who has been granted the consent.

(3) The power conferred by this section to modify a scheduled archaeological area consent in respect of any operation may be exercised at any time before those operations have been completed, but the modification shall not affect so much of those operations as have been previously carried out.

Reports of archaeological findings.

29.(1) A person who finds any antiquity or object of interest, or an object which he suspects to be a antiquity or object of interest, on land or on the seabed, shall within 24 hours after he has found such object, report the finding to a police officer or the Curator.

(2) In the report the person must state-

- (a) his name and address;

- (b) the nature or character of the object;
- (c) the time and place at which and the circumstances in which it was found by him; and
- (d) any further information within his knowledge about the antiquity or object of interest.

(3) The person, or a police officer if the finding was originally reported to them, shall then allow delivery of the object to the Curator with immediate effect.

(4) On receiving an antiquity or object of interest under subsection (3), the Curator shall—

- (a) issue to the person who found the antiquity or object of interest a receipt fully describing the object;
- (b) retain the antiquity or object of interest in safe custody which, by virtue of section 5, is the property of the Government; and
- (c) report the discovery to the Minister, the Archaeological Officer and to the Council.

(5) Any person who finds an antiquity or object of interest, or an object which he suspects to be an antiquity or object of interest, and—

- (a) fails without reasonable excuse to make a report of such finding in accordance with subsection (1);
- (b) makes such a report of a finding which is to his knowledge false or misleading in any material respect;
- (c) in contravention of that subsection fails or refuses to give to a police officer or the Curator information in relation to such object or antiquity or the finding thereof;
- (d) gives to a police officer or the Curator information in relation to such object or antiquity or the finding thereof which is to his knowledge false or misleading in a material respect; or
- (e) fails to deliver or allow a police officer to deliver the object or antiquity to the Curator,

shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

(7) Where a person proposes to develop a site (“the developer”) in respect of which the Development and Planning Commission, after consulting the Archaeological Officer and the Curator, has ascertained that that site has undiscovered archaeological potential, the developer shall undertake an archaeological impact study (including a desk-based assessment).

(8) The Minister, after consulting the Archaeological Officer and the Curator, having had regard to the study referred to in subsection (7) may direct the developer to undertake either or both-

- (a) an archaeological watching brief; and
- (b) an archaeological excavation,

as the case may be, and such direction shall be communicated in writing.

(9) The obligations under subsections (7) and (8) are not fulfilled unless these are undertaken in consultation with a representative of the Ministry for Heritage, and for such purposes the developer shall grant such access to the site, objects and to any other relevant material as may be required.

(10) A study under subsections (7) and (8) shall include field and post-field analysis and shall be submitted to the Ministry for Heritage.

(11) The costs of compliance with the provisions of subsections (7) to (10) shall be borne by the person upon whom the duty is imposed.

(12) A person who fails to comply with subsections (7) to (10) is guilty of an offence under this section and shall be liable-

- (a) on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both.

PART 6

THE ARCHAEOLOGICAL OFFICER

Archaeological Officer.

30.(1) There shall from time to time be appointed a public officer or any other person who is a fit and proper person being professionally qualified, by a recognised professional body or institution or having the suitable training and experience, to be the Archaeological Officer whose duties shall include identifying and protecting monuments or buildings, historical conservation areas, archaeological areas and archaeological findings.

(2) The Archaeological Officer shall advise Government on archaeological, heritage and conservation matters and shall be responsible to the Minister in this respect.

General functions.

31. The Archaeological Officer shall have those functions allocated to him on appointment by the Minister.

**PART 7
THE GIBRALTAR NATIONAL MUSEUM**

Curator.

32.(1) The Minister shall from time to time, after consultation with the Council and the Gibraltar Heritage Trust appoint a suitably qualified, fit and proper person to be the Curator of the Museum.

(2) The Curator shall be the Chief Executive Officer of the Museum and shall be responsible to the Minister for its due management.

General functions of the Museum vest in the Curator.

33. The Museum shall have the following general functions all of which shall vest in the Curator—

- (a) to promote and undertake the discovery, identification, preservation, exhibition, appreciation and enjoyment of antiquities or objects of interest;
- (b) to promote and undertake research into antiquities, objects or sites of interest;
- (c) to provide educational services and material to enhance a wider understanding of heritage particularly amongst children and young people; and

- (d) to undertake such other functions as are conferred on it by this Act or by any other enactment or on the instructions of the Minister.

General powers.

34. In the performance of his functions the Curator may, on behalf of the Museum—

- (a) accept by way of gift, loan or donation—
 - (i) an antiquity or object of interest;
 - (ii) books, manuscripts, pamphlets, reports, maps, pictures, and other documents that relate to Gibraltar and are suitable for the purposes of a reference library or archives;
 - (iii) other articles that are suitable for study or exhibition;
- (b) subject to approval by the Minister after consultation with the Council, and subject to the terms of any trust, hire out, exchange or lend copies of antiquities or objects of interest and other articles including anything specified in paragraph (a); and
- (c) after consultation with the Council, commission the undertaking of investigations to discover, obtain or recover antiquities or objects of interest and the undertaking of research in relation to antiquities or objects of interests.

Vesting of property of the Museum.

35. All antiquities or objects of interest, money, securities for money, and all other property, whether moveable or immovable, acquired, donated to or held by the Curator in the fulfilment of his functions under Part 7 shall vest in the Crown in right of the Government, subject always to the terms on which they were acquired or held and to the terms of any trust.

Property to be held for the benefit of the public.

36.(1) All property that is vested in the Crown in right of the Government by virtue of section 35 shall be so held on trust and shall be applied for the benefit and enjoyment of the public or otherwise employed in the public interest.

(2) All properties which are for the time being lent to the Curator shall, subject to the conditions on which they have been lent, be held in trust and applied for the benefit and enjoyment of the public.

(3) Property falling within subsection (1) shall, where requested for a public purpose by the Minister, be delivered to the Minister in accordance with the terms of such request.

Disposal of antiquities or objects of interest.

37.(1) On receiving any report of the discovery of an object believed to be an antiquity or object of interest, the Curator shall advise the Minister, who will determine, after consultation with the Council, whether it should be retained in the Museum or in any other place pursuant to subsection (2).

(2) Where the Minister directs, after consultation with the Council, that the object believed to be an antiquity or object of interest should not be retained by the Museum, the Curator at the instruction of the Minister may offer the object to the British Museum or any other institution or individual, on such terms and conditions as may be agreed.

PART 8 GIBRALTAR NATIONAL ARCHIVES

Interpretation.

38.(1) In this Part, “public records” includes administrative and departmental records belonging to the Government, whether in Gibraltar or elsewhere, in right of the Government of Gibraltar and, in particular—

- (a) records of, or held in, any Government department; or
- (b) records of any office, commission, agency, body corporate or other entity established by the Government.

(2) In this Part, “records” includes not only written records but records conveying information by any means whatsoever, including electronic means.

(3) Where records created at different dates are for administrative purposes kept together in one file or other assembly, all the records in that file or other assembly shall be treated for the purposes of this Part as having been created when the latest of those records was created.

Archivist.

39. There shall from time to time be appointed a public officer or any other person who is a fit and proper person being professionally qualified by a recognised professional body or institution, or having the suitable training and experience, to be the Archivist in charge of public records and the archives.

General responsibility.

40.(1) The Archivist shall be generally responsible for the execution of this Part and shall supervise the collection, conservation and preservation of public records and archives which warrant preservation and shall advise the Government on matters concerning public records and archives in general and, in particular, on those aspects which affect public officers and members of the public who make use of the facilities provided.

(2) It shall be the duty of the Archivist to take all practicable steps for the preservation of public records and archives under his charge and he shall have power to do all such things as appear to him necessary or expedient for maintaining the utility of the Gibraltar National Archives and may in particular—

- (a) compile and make available indexes and guides to, and calendars and texts of, the records kept in the archives;
- (b) prepare publications concerning the activities of and facilities provided;
- (c) regulate the conditions under which public officers and members of the public may inspect public and other records or archives or use the other facilities;
- (d) provide for the making and authentication of copies of and extracts from public records required as evidence in legal proceedings or for other purposes;
- (e) make arrangements for the separate housing of films, discs and other records which have to be kept under special conditions;
- (f) lend public records and archives, in a case where the Minister with responsibility for Archives, after consultation with the Council, gives his approval, for display at commemorative exhibitions or for other special purposes;
- (g) acquire records and accept gifts and loans; and
- (h) make arrangements for the digitisation of public records and maintenance of public records electronically created so as to both preserve and improve access to information.

Selection and preservation of public records and archives.

41.(1) It shall be the duty of every public officer or employee responsible for holding public records of any description which are not in the custody of

the Archivist to make arrangements for the selection of those records which the Archivist deems appropriate ought to be permanently preserved and kept safe.

(2) Public records selected for permanent preservation under this section shall be transferred to the Gibraltar National Archives not later than 20 years after their creation as soon as storage space is available.

(3) Where records created at different dates are for administrative purposes kept together in one file or other assembly all the records in that file or other assembly shall be treated as having been created when the latest of those records was created.

(4) Public records which, following the arrangements made in pursuance of this section, have been rejected as not required for permanent preservation shall be destroyed or, subject to the approval of the Minister with responsibility for Archives, disposed of in any other way.

(5) Public records in the Gibraltar National Archives or other place of deposit shall be temporarily returned to the person, department or office from which they were transferred.

Place of deposit of public records and archives.

42.(1) If it appears to the Minister with responsibility for Archives, after consultation with the Council and the Archivist, that a place outside the Gibraltar National Archives affords suitable facilities for the safe-keeping, inspection and preservation of public records and archives, he may appoint it as a place of deposit as respects any class of public records or archives selected for permanent preservation under this Part.

(2) Public records and archives in-

- (a) the Gibraltar National Archives shall be in the custody of the Archivist;
- (b) a place of deposit appointed under this section shall be in the custody of such officer as the Minister with responsibility for Archives may appoint which may also be the Archivist.

Access to public records.

43.(1) It shall be the duty of the Archivist to arrange that reasonable facilities are available to public officers and the public for inspecting and obtaining copies of those public records in the Gibraltar National Archives.

(2) Nothing in this Part shall permit the inspection or taking of copies of any public record-

- (a) which has been issued with a security classification which prohibits its dissemination to persons not falling within that security classification; or
- (b) if disclosure of that public record is prohibited by any law.

Destruction of public records.

44. If, as respects any public records in the Gibraltar National Archives or any place of deposit appointed under section 41, it appears to the Archivist that-

- (a) they are duplicated by other public records which have been selected for permanent preservation; or
- (b) there is some other special reason why they should not be permanently preserved,

the Archivist may, with the approval of the Minister with responsibility for Archives, authorise the destruction of those records or, with that approval, arrange for their disposal in any other way.

Legal validity of public records and authenticated copies.

45. A copy of or extract from a public record in the Gibraltar National Archives purporting to be examined and certified as true and authentic by the Archivist shall be admissible as evidence in any proceedings without any further or other proof being required.

**PART 9
THE GIBRALTAR HERITAGE TRUST**

The Gibraltar Heritage Trust.

46.(1) Notwithstanding the repeal of the Gibraltar Heritage Trust Act 1989 there shall continue to be maintained in Gibraltar, the Gibraltar Heritage Trust (“the Trust”) established under section 3 of the Gibraltar Heritage Trust Act 1989 as though that Trust had been established under this Act.

(2) The Trust shall continue to be a body corporate with perpetual succession and a common seal.

(3) The provisions of Schedule 5 shall have effect with respect to the functions, constitution and procedures of the Trust.

(4) The Minister may after consultation with the Council and Trust, by order published in the Gazette, amend or vary the provisions contained in Schedule 5.

PART 10 MISCELLANEOUS PROVISIONS

Register of scheduled monuments etc.

47.(1) The Minister shall, in consultation with the Council, compile and maintain for the purposes of this Act a register of scheduled monuments or buildings, scheduled historical conservation areas and scheduled archaeological areas (“the Register”).

(2) The Register shall record in respect of each scheduled monument or building, scheduled historical conservation area and scheduled archaeological area a chronological record of events, activities, operations, discoveries and any other matter which provides a comprehensive account of the history of such monuments and areas.

Treatment and preservation of finds.

48.(1) Where a person enters any scheduled archaeological area to carry out any operations in accordance with an archaeological area consent granted under section 25(4), he may-

- (a) take temporary custody of any object of archaeological interest or any antiquity discovered; and
- (b) remove the object or antiquity from the area and take temporary custody of it for the purpose of examining, testing, treating, recording or preserving it.

(2) Where an authorised person enters any scheduled archaeological area to-

- (a) observe any operations in the land or seabed; or
- (b) to carry out any archaeological examination of the land or seabed,

he may take temporary custody of any object of archaeological interest or antiquity discovered and remove the object or antiquity from the area for the purpose of examining, testing, treating, recording or preserving it.

(3) An authorised person for the purposes of subsection (2) is-

- (a) the Minister or any public officer in the staff of the Minister;

- (b) a member of the Council authorised by the Minister; or
- (c) any other person authorised by the Minister.

Restrictions on removal of antiquity or object of interests from Gibraltar.

49.(1) Any person who exports an antiquity or object of interest to any destination shall be guilty of an offence.

(2) Notwithstanding the control of exports under the Imports and Exports Act 1986, subsection (1) shall not apply to the export of an antiquity or object of interest on the authority of a permit granted by the Minister after consulting the Council.

(3) Without prejudice to its definition in section 3, “antiquity or object of interests”, for the purposes of this section, shall also include any goods manufactured or produced more than 100 years before the proposed date of exportation except—

- (a) postage stamps and other articles of philatelic interest;
- (b) birth, marriage or death certificates or other documents relating to the personal affairs of the exporter or the spouse, civil partner or partner of the exporter;
- (c) letters or other writings written by or to the exporter or the spouse, civil partner or partner of the exporter;
- (d) any goods exported by, and being the personal property of, the manufacturer or producer thereof, or the partner, civil partner, spouse, widow or widower of that person; and
- (e) any other item designated by the Minister after consulting the Council.

(4) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 of the standard scale, or both.

(5) In any proceedings for an offence under this section, it shall be a defence to prove that an antiquity or object of interest was exported in accordance with the terms of a valid permit issued under this section.

Restrictions on use of equipment.

50.(1) Any person who, in the site of a scheduled monument or in a scheduled historical conservation area or a scheduled archaeological area—

- (a) uses any equipment with the intention of finding or detecting any antiquity or object of interest; and
- (b) removes any such object or antiquity which he has discovered by the use of any such equipment,

without the written authority of the Minister shall be guilty of an offence.

(2) An authority under subsection (1) may be subject to conditions.

(3) If a person who has been granted an authority under subsection (1) fails to comply with any condition (if any) attached to the authority, he shall be guilty of an offence.

(4) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 2 on the standard scale, or both; or
- (b) on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 of the standard scale, or both.

Regulations.

51.(1) The Minister may from time to time make regulations for the purposes of providing for such other matters as are reasonably necessary for or incidental to the due administration of this Act.

(2) Without prejudice to the generality of subsection (1) such regulations may provide for—

- (a) any matter appertaining to the functions, constitution and proceedings of the Council;
- (b) prescribing the procedure to be followed on any consent under this Act, the forms to be used in such consents;

- (c) prescribing fees in respect of any matters under this Act;
- (d) regulating conduct in the Gibraltar National Museum and, Gibraltar National Archives providing that a contravention of any such regulation shall constitute a criminal offence, and providing for a penalty for any such offence;
- (e) the form and contents of the register maintained under section 47;
- (f) the protection, regulation and designation of sites of outstanding universal value which have been granted World Heritage status under the 1971 UNESCO Convention;
- (g) the protection, regulation and designation of sites which the Minister, after consultation with the Council, recognises has a unique heritage value

Legal Deposit.

52.(1) The Minister may from time to time make regulations for the purposes of establishing a Legal Deposit Library for the deposit of published works in a printed medium or otherwise and for such other matters as are reasonably necessary or incidental thereto.

(2) Without prejudice to the generality of subsection (1) such regulations may provide for-

- (a) prescribing the manner of depositing a copy of a work with a Legal Deposit Library;
- (b) prescribing the manner of depositing a copy of a work that is published in a medium other than a printed medium;
- (c) prescribing the time for compliance with a requirement under subparagraph (a) or (b); and
- (d) designating a Legal Deposit Library.

Repeal of Gibraltar Heritage Trust Act 1989.

53. The Gibraltar Heritage Trust Act 1989 is repealed

Savings and Transitional Provisions.

54.(1) Notwithstanding the repeal of the Gibraltar Heritage Trust Act 1989 under section 53 no personal liability shall attach to any trustee of the

Gibraltar Heritage Trust in respect of anything done or omitted to be done, in good faith, prior to the coming into operation of this Act.

(2) Any licence or consent granted under the Gibraltar Heritage Trust Act 1989 shall continue and have effect as if this Act had not come into force.

(3) Any application pending a decision for a licence or consent, which was made prior to the coming of force of this Act, shall continue as if the application had been made under the Gibraltar Heritage Trust Act.

Consequential Amendments.

55. Consequential amendments are contained in Schedule 6.

SCHEDULE 1

Section 6

Heritage and Antiquities Advisory Council (“the Council”)**Membership of Council.**

1.(1) The Council shall consist of the following members–

- (a) the Minister who shall be the chairperson;
- (b) the Curator of the Gibraltar National Museum;
- (c) the Government Archivist;
- (d) the Government Archaeologist; and
- (e) five other persons as follows-
 - (i) one person representing the Ministry for Heritage;
 - (ii) one person representing the Department of the Environment;
 - (iii) one person representing the Board of the Gibraltar Heritage Trust;
 - (iv) one person representing the Town Planning Department
 - (v) one person representing the Gibraltar Ornithological and Natural History Society.

(2) Alternate members may, from time to time, be appointed to substitute for any of the members of the Council and they shall have the same rights and powers as appointed members.

(3) Where an appointment is made under sub-paragraphs (1) and (2), or any person ceases to hold any such appointment, notice of the fact shall be published in the Gazette.

(4) An appointed member or alternate member, unless he dies, resigns, or is removed from office under subparagraph (6), shall hold office for a term of three years from the date of his appointment and thereafter until his successor comes into office.

(5) An appointed or an alternate member may be re-appointed.

(6) The Minister may remove from office on the grounds of inability, neglect of duty, insolvency or misconduct any appointed or alternate member of the Council.

Chairperson and Procedure.

2.(1) The Minister as chairperson of the Council shall preside at all meetings of the Council.

(2) At any meeting of the Council five voting members shall form a quorum.

(3) Subject to the provisions of this Act, the Council may regulate its own procedure.

(4) When, in the opinion of the chairman, the business before the Council makes it desirable to do so, an invitation may be issued to any person to a meeting of the Council or to such part of a meeting as is concerned with such business notwithstanding that such person is not a member of the Council.

(5) Any person so invited shall be entitled to take part as if he were a member in the proceedings of the Council relating to the matter in respect of which he was invited except that he shall not have a right to vote.

(6) The decision of the majority of the members present and voting at any meeting shall be the decision of the Council on any matter before it, and on an equality of votes the chairperson shall have an additional casting vote.

Executive Officer and Secretary.

3. A public officer on the staff of the Minister shall be appointed by the Minister to be the executive officer and the secretary of the Council.

SCHEDULE 2

Section 12

Scheduled Monuments or Buildings

- Part 1 – Buildings
 Part 2 – Monuments
 Part 3 – Fortifications
 Part 4 – Caves and geological features
 Part 5 – Submerged heritage

Part 1

Buildings-

Description	Location
Gibraltar Museum including Moorish Baths	Bomb House Lane, 18-20
Nefusot Yehudah Synagogue	Bomb House Lane
Grand Casemates Barracks	Casemates Square
Sacred Heart Church	Castle Road
Our Lady of Sorrows	Catalan Bay
Cathedral of the Holy Trinity	Cathedral Square
Duke of Kent House	Cathedral Square
Convent Guard House	Convent Place, 6
Shaar Hashamayim Synagogue	49 Engineer Lane
Defensible Barracks (University of Gibraltar)	Europa Flats
Nun's Well	Europa Flats South of Keightley Way Tunnel entrance
Shrine of Our Lady of Europe and Moorish paving	Europa Flats
Royal Naval Hospital (only refurbished blocks)	Europa Road
Royal Naval Hospital annex	Europa Road
Garrison Library and Gardens	Governor's Parade
St. Andrews Church	Governor's Parade
Colonial Hospital, Ex-St. Bernard's Hospital facade and foundation stone	Hospital Hill/Hospital Ramp
The Main Guard	John Mackintosh Square
City Hall	John Mackintosh Square
Clocktower	Lower Castle Road
Cathedral Church of St Mary the Crowned	Main Street
Court House	Main Street, 277

The Convent, its complex, associated structures and gardens including frescoes and King's Chapel	Main Street, 304
Church doorways	St. Jago's Barracks and Convent stables
Exchange Building, Gibraltar Parliament	Main Street 156
St. Jago's Barracks	Main Street, 331
Central Hall, including rectory	North Pavilion Road
Rosia Guard House (Dolphins Youth Club)	Rosia Road
18 th Century military barrack complexes	South Barracks
St Joseph's Church	Witham's Road, 28
Entrance to Victualling Yard	South Rosia Parade

Part 2

Monuments-

Description	Location
Sikorski memorial propeller	Europa Point
Queen Victoria Memorial	Governor's Parade
WWI Memorial	Line Wall Boulevard
Christian Brother's Memorial	Line Wall Boulevard
Anti- Tank Teeth	Winston Churchill Avenue
Two 6pdr BL guns	Europa Point
Cannon 24pdr	City Mill Lane
Cannon position including pivot of 32pdr sliding traversing carriage	Site of Hospital Battery Northern section
2 Coehorn Mortars	The Convent
2 Carronade 18pdr	City Mill Lane
Carronade	Convent Courtyard
1 Carronade 8pdr	George's Lane–Town Range
1 Carronade 8pdr	Hargrave Square
Spanish Bronze Cannon	Grand Battery
One Koehler Depressing Gun	Grand Casemates Square
One 6pdr Coast Defence on pivot mount	Stone Block, Gibraltar Regiment Barracks
One 6pdr Coast Defence on pivot mount	Fortress Headquarters Rosia Parade
Two Russian Crimean Cannon	By Line Wall War Memorial

presented to Gibraltar	
Court of Orange Trees with Spanish Coat of Arms	Main Street North East corner of Cathedral of St Mary the Crowned
Dockyard Box Car	Ragged Staff Road
Aqueduct: underground from Humphrey's Estate to John Mackintosh Square to include 4th vent Tower on Rosia Road and Spanish Fountain on south side of Zoca Flank	Rosia Road
Natural Spring and well	East Rosia Parade
Trafalgar Cemetery	Trafalgar Hill
Witham's (Sandpits) Cemetery	Witham's Road

ALAMEDA GARDENS–

Description	Location
Elliot's Monument including one 8in. and three 10 in. howitzer barrels, bronze	Alameda Gardens
Two Russian Crimean Cannon presented to Gibraltar	Entrance to Alameda Gardens, Grand Parade
Tomb of Bridget McFarlane	South of Glorietta, East of Wellington's Monument
Two 10 in. 18 ton rifled muzzle loaders	Car Park, Grand Parade
Wellington Monument including a 1758 12pdr cannon and carriage and two 13 in. mortars and shot	Alameda Gardens

UPPER ROCK–

Description	Location
Advance Look out Post– Moorish with stone conical roof	North of Mount Misery
Jews' Gate Cemetery	Cemetery South East of junction Queen's Road/Engineer Road
Mrs Chetwynds Chair	Rock cut seat near Governor's Lodge Mediterranean Road
Old Lime Kiln	East of Willis' Road
Rock cut seat	Upper Rock, near top of Mediterranean Steps
Rock cut seat and carving	Douglas Cave, southern end of

	Douglas Path
Stay Behind Cave Complex	O'Hara's Road
World War II Tunnel complex including, Great North Road, Calpe Hole Generating Station, Hay's Level	

Part 3

Fortifications-

THE LINE OF FORTIFICATIONS FACING NORTH AND WEST AND COVERING GIBRALTAR BAY AND HARBOUR, COMPRISING–

Description	Location
Casemates Curtain including Casemates Gates Waterport	Western entrance to Grand Casemates Square
Chatham Counterguard including Chatham Wicket, including cannon on top of wall.	East side Queensway from Waterport Fountain to American War Memorial
Curtain Walls to Alexandra Battery	West of Rosia Road
Devil's Tongue Battery	South side of Old Mole, Waterport Wharf
Dockyard Clocktower	Rosia Road
Dockyard Gatehouse	Ragged Staff
Engineer Battery	
Grand Battery	North East side
Grand Casemates Barracks & Square	Grand Casemates
Hesse's Demi Bastion	North corner of Moorish Castle
King's Bastion including one 12.5–38 ton Gun and two 10in–18 ton Guns	Leisure Centre between Queensway and Line Wall Road
Landport Gate North	East corner Grand Casemates Square
Line Wall Road to King's Bastion	Line Wall Road
Line Wall Curtain to South Bastion	West of Line Wall Road and John Mackintosh Hall
Line Wall Curtain to Wellington Front	West of Line Wall Road and Convent

Montagu Bastion	Bounded by Line Wall Road and Fish Market Road
Montagu Curtain including Boyd's Gate	East of Fish Market Road
Napier of Magdala Battery	North side of Rosia Bay
North Bastion	Bounded by Smith Dorrien Avenue and Corral Road
Curtain to North Jumpers Bastion	West of Rosia Road
North Jumpers Bastion	
Old Mole Head	North West of Devil's Tongue Battery
Orange Bastion, incl. two 10" 18 ton RMLs and including cannon in embrasures.	West of Line Wall Road
Parson's Lodge Battery and AA machine gun	Rosia Bay
Prince Albert's Front, including Main Sally Ports and Zoca Flank including 12.5" RML. Including 9 cannon on north and south platforms.	West of Line Wall Road from American War Memorial to Zoca
Defensive Walls of Prince William	South end of South Mole
Ragged Staff Flank	East of Gates
Ragged Staff Gates	By Dockyard North Gate
Rosia Bay Defensive Wall and batteries including one 64pdr rifled muzzle loading gun	East side of Rosia Bay
South Bastion	West of Southport Gate
Curtain to South Jumpers Bastion	
South Jumpers Bastion	
Wellington Front	East of Commonwealth Park
West Place of Arms	Corral Road
100 ton gun to include the two loading rammer chambers and 3.7" AA Gun	North side of Rosia Bay

DEFENCES COVERING EUROPA COMPRISING--

Description	Location
Buena Vista Battery	West side of Buena Vista Parade Ground
Defensive wall from Parsons Lodge to Buena Vista Barracks	West Side of Buena Vista Parade Ground
Defensive wall along whole Europa cliff edge	From Prince George's Battery round Europa Point to car chute at Europa Battery
1 st Europa Advance Battery	East of Europa Advance Road
2 nd and 3 rd Europa Advance Batteries	East of Europa Advance Road
Harding's Battery and magazine	Europa Flats
Machicouli Gallery	Above Camp Bay
Prince George's Battery	Top of cliff on South side of Little Bay
Stone tower with spiral staircase	Behind (East) 2nd Europa Pass Battery

LOWER CHARLES V WALL FROM SOUTH BASTION RUNNING EAST AND INCLUDING–

Description	Location
Flat Bastion	Below Green Lane
Flat Bastion Magazine	Above Gardiner's Road
Prince Edward's Gate and two guardhouses	Prince Edward's Road
St. Jago's Bastion	Above and East of Trafalgar Cemetery
Southport Gates, including 10in. RML 18 ton gun and Coats of Arms	Bottom of Trafalgar Hill

MOORISH WALL INCLUDING–

Description	Location
Old Guard House	From above Green Lane to Signal Hill
Signal Station	North of Wall Signal Hill

UPPER CHARLES V WALL INCLUDING–

Description	Location
Middle Gate	Middle Road
Prince Ferdinand's Battery	Apes' Den
Queens Gate incl. 10" RML and 9" RML embedded in wall and Healy's mortar	Old Queen's Road
St. Michael's Gate	St. Michael's Road

NORTH FRONT DEFENCES– from Old Mole Head to Rock Gun and including WWII North Face

Description	Location
King Lines including : Pill Boxes, machine gun positions and all Range Cards. Gulley exit and tunnel protective wall with arch	North West face of Rock
Bombproof Battery	
Bombproof Gallery	
Common's Hall	
Couvreport Battery, Including WWII bunker at entrance to Hesse's pumping stn.	
Hanover Battery	
Hanover Gallery	
King's Gallery	
King's Lines Battery	
Northern Defences/Road to the Lines dividing wall	
Orillon Fault chamber leading to Round Tower	
Orillon, incl. Batteries 1 through to 4. Site of Spanish Round Tower and WWII Battalion HQ O.P Page's Raise, Moor's Head Tunnel, search light and	

GM positions Sallyport from Orillon 1st Battery to Laguna	
Star Chamber	
Star Chamber Gallery	
St. Patrick's Chamber	
Queen's Lines, including:- WWII Mortar Positions Banquettes/firing positions	North East of Kings Lines overlooking Laguna Estate
Lower Forbes Battery	
Underground systems comprising:- Smart's Well Reserve Queen's Gallery Queen's Gallery South West Queen's Lines East Gallery Queen's Line Gallery Raleigh Gallery	
Queen's Advance Gallery	
Queen's Lookout 1797 and Queen's Range Gallery 1788	
WWII Forbe's Shaft, MG posts mid way down and lower chamber with Nissen hut	
Prince's Line Communication 1788	
Prince's Lines including: Lower Union Communication Bombproof Barracks Bomb Proof Magazine Forbes Lookout Upper Forbes Battery including Forbe's Magazine and Small Arms store Upper All's Well including access steps	Above King's & Queen's Lines
Steps leading to Star Chamber (filled in) via geological fault line	

Foot of Intrenchment wall Intrenchment Walls and Trench WWII Mortar Position 3 vent shafts to Engine Room Engine Room chambers, tunnels and structures	
Cook House	
Prince's Lines Battery including the area beneath the boulder	
Underground systems comprising:-	
Castle Communication	
Pidsleys Advance - and cantilevered DEL	
Princess Gallery	
Lower Prince's Gallery 1790	
Ramp to Star Chamber	
Upper Galleries	
Middle Galleries	
Lower Galleries	

UPPER ROCK NORTH BATTERIES COMPRISING-

Description	Location
Farrington's Battery	North of Rock, above Princess Batteries
Green Lodge (or Superior) Battery	North Upper Rock
Princess Amelia's Battery including four 5.25 in. Heavy anti-aircraft guns	
Princess Caroline's Battery with 64 pdr RML gun	North end of Queen's Road
Princess Royal Battery	
Upper Gallery entrance and Bastion including 64 pdr gun	Top of Upper Galleries Road

MOORISH CASTLE COMPLEX INCLUDING-

Description	Location
The Inner Keep and Blind Arches	
The Outer Walls, Towers and Gate House	
The Tower of Homage	North East of Town

UPPER ROCK SOUTH BATTERIES, COMPRISING–

Description	Location
Lord Airey's Battery including 9.2" gun	O'Hara's Road
O'Hara's Battery including the complete 9.2 in gun magazines engine room and associated works and spare barrel.	O'Hara's Point Upper Rock
Series of rings along roads for hauling guns.	Upper Rock

QUEENS ROAD BATTERIES–

Description	Location
Devil's Gap Battery including two 6in BL guns and magazines	Below Old Queen's Road
Hayne's Cave Battery and 4 in. Shoulder Shield QF gun	
Rooke Battery	Royal Anglian Way off Willis' Road
Willis' Magazine	Off Willis' Road

DEFENSIBLE BARRACKS–

Description	Location
Devil's Bellows	Gateway from Windmill Hill Road
Hole in the Wall Gate	South end of Hole in the Wall Road leading from Windmill Hill to Europa Advance Road
Hole in the Wall Battery	East of the Hole in the Wall
Retrenchment Block	Including archway, defences and spiral staircase

EASTERN SEABOARD WORLD WAR TWO DEFENCES–

Description	Location
Fort Gary and Fort George	Canadian constructed bunker on south end of Eastern Beach
Fort MOT	Canadian constructed bunker by entrance to Eastern Beach Road from Devil's Tower Road
Dudley Ward Tunnel World War Two machine gun positions ES1 and ES2	Dudley Ward Tunnel World War Two machine gun positions ES1 and ES2

Part 4**Caves and geological features-**

Description	Location
Bennett's Cave, Palaeolithic site.	Governor's Beach
Collin's Cave, Neolithic site	East Cliffs
Devil's Tower Cave– Mousterian Shelter (skull of Neanderthal child found)	Off junction Devil's Tower Road/Eastern Beach Road
Devil's Fall Cave– Prehistoric Shelter	In cliff face between Camp Bay and Little Bay
Fig Tree Cave No.2, Archaeological site	Off Mediterranean Steps
Remains of Forbes Quarry Cave (site of first Neanderthal skull find)	Off Devil's Tower Road
Genista Cave Stone– Late Neolithic dwelling site	Site marked by stone tablet outside Eastern entrance to QM Block at Lathbury Barracks
Goat's Hair Twin Caves, Palaeolithic occupation site. Also Neolithic site	Off Mediterranean Steps
Gorham's Cave– Palaeolithic occupation site. Also Neolithic and Phoenician/Carthaginian site	Governor's Beach
Holyboys' Cave, Archaeological site	East cliffs
Hyaena Cave, Palaeontological site	Governor's Beach
Ibex Cave, Palaeolithic site	East side sand dune

Judge's Cave– Neolithic Shelter	Glen Rocky North Gorge
Martin's Cave– Palaeolithic occupation site. Also Neolithic and Medieval site	Off Mediterranean Steps
Mammoth Cave, Neolithic site	East cliffs
Mediterranean Cave	Brian Navarro Way
Northern Defenses geological fault and joints.	Smart's Well Reserve and all adjacent caves/faults/joints
Prince's Line Engine Room north chamber.	
St. Michael's Cave, Lower Series	Entrance tunnel below Spur Battery Road
New St. Michael's Cave	
Upper St Michael's Cave System	Entrance off St. Michael's Road
Sewell's Cave, Palaeolithic site	East cliffs
Vanguard Cave, Palaeolithic occupation site	Governor's Beach

Part 5

Submerged heritage-

Wreck	Location
Bristol Bombay bomber	Aircraft crashed in 1941 during Second World War and lies at 40 meters
Cannon Pile	Off Detached mole at 27 Meters
East side aircraft	Off Eastern Beach
HMS Erin. Inner	400 ton anti-submarine trawler sabotaged in harbour on 18 th Jan 1942 and sunk in two parts. Lies at 20 meters
HMS Erin. Outer	400 ton anti-submarine trawler sabotaged in harbour on 18 th Jan 1942 and sunk in two parts. Lies at 30 meters
482 Cable layer	Sunk in 1990 at a depth of 17 meters
SS Excellent	1082 ton steamship sunk following a collision on 29 th Feb 1888. 260 ft in length. Lies at 30 meters
Italian Chariot	Lies at 33 meters. Lost by malfunction during trials by Lt.

	“Buster” Crabb during WWII
Pilot boat	150 ton steamer sunk in 1917 following an explosion Lies at 34 meters
SS Rosslyn	3600 ton cargo vessel that sunk during a storm in 1916. Lies at 21 meters
Sherman tanks	Off Europa Point and dumped in 1960 at a depth of 3 meters
HMS Stella Sirius	400 ton anti-submarine trawler sunk during a Vichy French air raid on the 25 th Sep 1940. Lies at 20 meters.

SCHEDULE 3

Section 19

Scheduled Historical Conservation Areas

SCHEDULE 4

Section 24

Scheduled Archaeological Areas

SCHEDULE 5

Section 46

Gibraltar Heritage Trust (“the Trust”)

Objects and powers of the Trust.

1.(1) The object of the Trust shall continue to be the preservation of Gibraltar’s heritage.

(2) The acquisition in any manner and retention of any investments (being at the time of acquisition of a nature authorised by the general law for the investment of trust funds or of a nature authorised by the trusts imposed by the donor of the same or of the funds out of which the same shall be acquired) the income whereof shall be applicable (subject to any trusts imposed by the donor or otherwise affecting the same) at the discretion of the Board for any particular purpose of the Trust or for its general purposes.

Board of the Trust.

2.(1) The affairs of the Trust shall be administered by the Board of the Gibraltar Heritage Trust (“the Board”).

(2) The Board shall have power to appoint such sub-committees as it considers appropriate.

General functions of the Board.

3.(1) Without prejudice to paragraph 1, it shall be the general duty of the Board—

- (a) to promote and secure the preservation and enhancement of Gibraltar’s heritage;
- (b) to promote the public’s enjoyment of and advance their knowledge of Gibraltar’s heritage;
- (c) at the request of Minister, or otherwise, to advise Government at an early stage on any planning or other proposals affecting any building, structure, site or land;
- (d) to promote research into and publications on Gibraltar’s heritage and on the history of Gibraltar including its social, cultural, economic and political evolution; and

- (e) undertake such other functions as are conferred on it by this Part or by any other enactment or which are otherwise in keeping with the objects of the Trust.

(2) The Board—

- (a) shall, (so far as practicable) provide educational facilities and services, instruction and information to the public in relation to Gibraltar's heritage;
- (b) shall, if requested by the Government, or if the Board otherwise thinks fit to do so, to advise on any matter relating to the objects of the Trust and functions of the Board;
- (c) may, for the purpose of exercising its functions, carry out, or defray, or contribute towards the cost of research in relation to Gibraltar's heritage;
- (d) may, for the purpose of exercising its functions, make and maintain records in relation to Gibraltar's heritage; and
- (e) may make such charges for any of their services as they think fit, save that it shall not charge Government or any any Government company or entity, wholly or partly owned or controlled by Government.

Additional powers of the Board.

4.(1) The Board may make arrangements on its own behalf or enter into contracts which have any of the objects mentioned in subsection (2).

(2) The objects are—

- (a) the production, publication and sale of books, films or other informative material relating to Gibraltar's heritage and the commissioning of works of art, craft or design relating thereto; and
- (b) the production and sale of replicas or reproductions of works of art, craft or souvenirs relating to Gibraltar's heritage.

(3) The Board may acquire and hold interests in any company or other body having any of the objects mentioned in subsection (2), exercise rights conferred by the holding of an interest in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of the obligations of such a company or body).

Staff.

5.(1) There shall be a Chief Executive Officer, secretary and a treasurer to the Trust who shall be appointed by the Board other than from among their own number.

(2) The Secretary shall be responsible to the Board for the general exercise of the Board's functions.

(3) The Board may employ such persons, who are not trustees, as the Board thinks fit as long as the board has the necessary funds to pay for the employee.

(4) The Board shall appoint their employees on such terms and conditions and shall pay them such remuneration and allowances as the Board may determine within the remit of the Laws of Gibraltar.

Constitution of the Board.

6.(1) Subject to sub-paragraph (5) the Board shall consist of twelve trustees, 5 of whom shall be appointed by the Minister and the remaining seven trustees shall be elected at an annual general meeting of the Trust.

(2) Subject to subsection (5) a chairperson and vice-chairperson shall be elected by the trustees from among themselves.

(3) If a trustee appointed by the Minister dies or resigns or otherwise ceases to be a trustee, the Minister may appoint another person in his place.

(4) The Minister may discharge an appointed trustee from his office at any time.

(5) If an elected trustee dies, resigns or otherwise ceases to be a trustee, the Board may appoint in his place another person and the person so appointed shall hold office until the next annual general meeting of the Trust.

(6) An elected trustee may resign his office by notice in writing addressed to the chairperson. A chairperson or vice-chairperson may resign his office by notice in writing to the Minister. A trustee who absents himself from three consecutive meetings of the Board, without leave of the Board, shall be deemed to have resigned his office.

(7) An appointed trustee may resign his office by notice in writing to the Minister.

(8) A trustee shall be appointed or elected, as the case may be, for a term of 2 years. After completion of the term of 2 years, a trustee shall be eligible for re-appointment or re-election.

(9) A person is disqualified from the office of trustee if–

- (a) he is an undischarged bankrupt, or
- (b) he has been convicted by any court of a criminal offence involving fraud or dishonesty and sentenced to a term of imprisonment without option of a fine.

(10) The validity of any proceedings of the Board shall not be affected by any vacancy among the trustees or by any defect in the appointment of the trustees.

(11) The Board may regulate its own procedure.

(12) An elected trustee may be removed from office at any time by a resolution passed at a general meeting of the Trust by a majority of not less than two-thirds of the members present at the meeting.

Membership.

7.(1) The membership, if any, of the Trust shall be divided into the following classes–

- (a) ordinary subscribing members;
- (b) life members;
- (c) benefactors;
- (d) corporate members;
- (e) junior members;
- (f) family members;
- (g) such other classes as the Board may from time to time by resolution determine.

(2) Ordinary subscribing members shall be annual subscribers to the funds of the Trust of such minimum annual subscription as may from time to time be fixed by a resolution of the Board.

(3) Life members shall be persons who have made to the funds of the Trust a subscription of not less than a minimum amount fixed by a resolution of the Board as at the time when the subscription was made.

(4) Benefactors shall be persons who have given to the Trust such sum of money or other property as, in the opinion of the Board, is such as to entitle such persons to be distinguished as benefactors.

(5) Corporate members shall be corporate or other bodies or associations who may have made annual subscriptions to the funds of the Trust of such minimum amount as the Board may by resolution from time to time fix, and different minimum annual subscriptions may from time to time be fixed for different classes of corporate members.

(6) Junior members shall be annual subscribers to the funds of the Trust as such minimum annual subscription and of such an age as the Board may from time to time fix by resolution.

(7) Family members shall be persons who are members of the family of an ordinary subscribing member who make to the funds of the Trust an annual subscription of such minimum amount as the Board may from time to time by resolution fix.

General meetings.

8. General meetings of the Trust shall be held once at least in every year and shall be called and held in accordance with such rules as may be made by resolution of the Board passed at its meeting by a majority of not less than two-thirds of the trustees present at the meeting and approved at the next meeting of the Trust.

Financial provisions.

9.(1) The funds of the Trust shall consist of—

- (a) subject to the terms of any trust, such monies as may be received from the sale, lease, hiring out, lending or other disposal, exhibition or display of any property under its control, (which, in relation to the Gibraltar National Museum's original artefacts in the Museum, shall relate only to copies of such artefacts) subject to the consent of the Government;
- (b) any money received from the Government by way of royalties on ticket sales for admission to any properties in which the Trust has an interest as agreed with the Government from time to time;
- (c) subject to the terms of any trust, such monies as may be received by the Board by way of grants from the Government, subscriptions, contributions, donations or gifts or as may be otherwise received for any lawful purpose;

- (d) an index-linked subvention from the Government to cover employee and administration costs of the Trust; and
- (e) all accumulations of its funds.

(2) Where the Board acquires any money for any particular specified purpose, it shall keep that money in a separate account and apply it for that purpose.

(3) The Board may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

Accounts.

10.(1) The Board shall keep proper books of account of its operations during each financial year and shall cause a statement of its accounts for each financial year to be prepared within six months after the end of that year.

(2) The accounts of the Trust for each financial year shall be audited by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Trust, report—

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit;
- (b) whether, in his opinion, proper books of account have been kept by the Trust, so far as appears from his examination of those books;
- (c) whether the Trust's balance sheet and statement of income and expenditure are in agreement with the books of accounts; and
- (d) whether, in his opinion, and to the best of his information and according to the explanations given to him, those accounts give a true and fair view—
 - (i) in the case of the balance sheet, of the state of the Trust's affairs as at the end of its financial year; and
 - (ii) in the case of the statement of income and expenditure of the income and expenditure for its financial year.

(4) Within three months after the audit of its accounts for any financial year, the Board shall prepare and submit to the Minister a written report on its operations for that year together with a copy of the audited accounts for that year.

(5) The Minister shall lay one copy of the annual report and of the audited accounts before Parliament as soon as practicable after they have been received by him.

Exemption from taxes, etc.

11. The Trust shall be exempt from all taxes, duties, rates, levies or other charges whatsoever.

No personal liability to attach to the Board.

12. No personal liability shall attach to any member of the Board in respect of anything done, suffered or omitted to be done in good faith and without negligence, in pursuance of their duties under the provisions of this Act or any other Act.

Instruments.

13.(1) The fixing of the seal of the Board shall be authenticated by signature of two trustees, subject to resolution approved by not less than two-thirds of the Board.

(2) A document purporting to be duly executed under the seal of the Board, or to be signed on the Board's behalf, shall be received in evidence and, unless the contrary is proved, be deemed to have been executed and signed.

SCHEDULE 6

Section 55

Consequential Amendments**Gibraltar Culture and Heritage Agency (Repeal) Act 2012.**

1. The Gibraltar Culture and Heritage Agency (Repeal) Act 2012 is amended in section 4(1), and in the section heading thereto, by substituting “Gibraltar Heritage Trust Act 1989” with “Heritage and Antiquities Act 2018”.

Gibraltar Development Corporation Act, 1990.

2. The Gibraltar Development Corporation Act, 1990 is amended in section 11(2) by substituting “Schedules 1 and 2 to the Gibraltar Heritage Trust Act, 1989” with “Schedule 2 to the Heritage and Antiquities Act 2018”.

Public Health Act.

3. The Public Health Act is amended in-

- (a) section 273(3)(b) by substituting “are a category A listed building specified in Schedule 1 of the Gibraltar Heritage Act, 1989” with “listed in Schedule 2 to the Heritage and Antiquities Act 2018”; and
- (b) section 279(j) by substituting “the Gibraltar Museum established under the Gibraltar Heritage Trust Act, 1989” with “the Gibraltar National Museum established under the Heritage and Antiquities Act 2018”.

Environmental Protection (Trees) Act 2014.

4. The Environmental Protection (Trees) Act 2014 is amended in section 16 by deleting subsection (1)(d) in its entirety.