

**Implementing Order 1022/2004 of Act No. 25743**

**PROTECTION OF THE ARCHAEOLOGICAL AND PALEONTOLOGICAL HERITAGE**

**An order to approve the regulation of Act No. 25743; to designate the National Institute of Anthropology and Latin American Thought and the Bernardino Rivadavia Argentine Museum of Natural Sciences as the national enforcement authorities for the preservation and protection of the archaeological and paleontological heritage; to create the National Registry of Paleontological Sites, Collections and Remains, the National Registry of Archaeological Sites, Collections and Objects, and the National Registry of First Offenders and Recidivists.**

Buenos Aires, 10 August 2004

HAVING REGARD TO Act No. 25743 FOR THE PROTECTION OF THE ARCHAEOLOGICAL AND PALEONTOLOGICAL HERITAGE, and

WHEREAS

As prescribed by law, it is mandatory to implement such act;

For the purposes of implementing such act, the NATIONAL SECRETARIAT FOR CULTURE, the SECRETARIAT FOR SCIENCE AND TECHNOLOGY —reporting to the MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY—, the NATIONAL INSTITUTE OF ANTHROPOLOGY AND LATIN AMERICAN THOUGHT — in the scope of the NATIONAL SECRETARIAT FOR CULTURE—, and the BERNARDINO RIVADAVIA ARGENTINE MUSEUM OF NATURAL SCIENCES have all acted in exercise of their powers;

Consultations have been held with several jurisdictions and professional boards, addressing local interests and peculiarities, in the light of the essentially technical and specialized subject of this order;

Moreover, the GENERAL DIRECTORATE FOR LEGAL AFFAIRS, in the scope of the MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY, and the DIRECTORATE FOR LEGAL AFFAIRS, within the scope of the NATIONAL SECRETARIAT FOR CULTURE, have also acted in accordance with their powers;

This order is passed in exercise of the powers conferred by Section 99 (2) of the Argentine Constitution;

Now, therefore,

THE PRESIDENT OF ARGENTINA

HEREBY ORDERS:

**Section 1** — The implementing order of Act No. 25743, attached as Annex I and forming an integral part of this order, is hereby approved.

**Section 2** — Until the relevant registries are in full operation, archaeological and paleontological property included in Act No. 25743 may be reported to the enforcement agencies. It shall be duly identified, stating its origin, acquisition, the number of items, their state of preservation, information on the holder and the place of storage, as well as the minimum safety measures, and, in case of individuals or private institutions, photographic traditional or digital material. Every natural or legal person, whether public or private, currently holding or owning or about to hold or own said property is obliged to report it.

**Section 3** — The implementing order approved in Section 1 herein shall be effective as from the date of publication in the Official Gazette.

**Section 4** — Be it notified, published, submitted to the NATIONAL BOARD OF OFFICIAL REGISTRATION, and filed. — KIRCHNER. — Alberto A. Fernández. — Aníbal D. Fernández.

ANNEX I

IMPLEMENTATION OF Act No. 25743

SECTION 1 — The provincial governments, the government of the AUTONOMOUS CITY OF BUENOS AIRES and the federal government shall enforce Act No. 25743 in their respective jurisdictions, in order to preserve and protect the archaeological and paleontological heritage, with the federal government having the exclusive power to safeguard it.

SECTION 2 — The national enforcement agencies for this implementing order and for the protection of heritage shall be the NATIONAL INSTITUTE OF ANTHROPOLOGY AND LATIN AMERICAN THOUGHT —reporting to the NATIONAL SECRETARIAT FOR CULTURE— and the BERNARDINO RIVADAVIA ARGENTINE MUSEUM OF NATURAL SCIENCES —within the scope of the SECRETARIAT FOR SCIENCE, TECHNOLOGY AND INNOVATION, reporting to the MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY— as regards paleontological and archaeological property, respectively. Such agencies shall agree, in accordance with their powers and for the purposes of this act, on the definition of the following terms: archaeological object, fossil, lot, collection, site, and geological past, in order to harmonize administrative organization.

The term RECENT HISTORICAL TIMES means the past 100 (ONE HUNDRED) years as from the date on which the facts or events in question occurred.

SECTION 3 — Not regulated.

SECTION 4 — For the purposes of Section 4(a) of Act No. 25743, safeguard by the FEDERAL GOVERNMENT means legal protection of the archaeological and paleontological heritage in the national territory, beyond the rights of ownership and of protection and preservation of the relevant authorities in each jurisdiction.

SECTION 5 — The BERNARDINO RIVADAVIA ARGENTINE MUSEUM OF NATURAL SCIENCES shall create and organize through an internal decision the NATIONAL REGISTRY OF PALEONTOLOGICAL SITES, COLLECTIONS AND REMAINS, and the NATIONAL REGISTRY OF FIRST OFFENDERS AND RECIDIVISTS of paleontological protection laws.

The NATIONAL INSTITUTE OF ANTHROPOLOGY AND LATIN AMERICAN THOUGHT shall create through an internal decision the NATIONAL REGISTRY OF ARCHAEOLOGICAL SITES, COLLECTIONS AND OBJECTS, and the NATIONAL REGISTRY OF FIRST OFFENDERS AND RECIDIVISTS of archaeological and paleontological protection laws.

Provisions regarding the operation of such registries shall establish, without prejudice to budget allocations for their permanent staff, the resources to be obtained from the services provided.

In addition to acting as first-instance bodies in every matter pertaining to objects, collections and sites within their jurisdictions, the National Registries shall act as second-instance bodies in matters relating to objects, collections and sites in every other jurisdiction. Those other jurisdictions shall submit the relevant data to allow their centralization.

Neither registration of property or collections nor reports on such property or collections shall entail their authenticity.

The National Registries shall be notified of and receive all data available on the archaeological and/or paleontological heritage. They shall be entitled to issue reports on such data.

The enforcement agencies shall be entitled to carry out the inspections or surveys they deem necessary and deny applications to register property or objects where they consider the applications inadmissible.

Disputes shall be settled following the administrative procedures effective in each jurisdiction.

SECTION 6 — Each jurisdiction shall be governed by regulations issued by the local authorities to adjust its own legislation on registration, licenses, infringements and sanctions to Act No. 25743.

Transfers within the country of paleontological and/or archaeological objects, collections and/or remains shall be notified to the local enforcement agency and to the heads of the museums or research centers involved.

Transfers abroad of paleontological and/or archaeological objects, collections and/or remains shall be notified to the national enforcement agency within a term not exceeding 30 (THIRTY) days. During this term, the agency may adopt the necessary measures on such transfers in order to ensure the recovery and return to the country of the property concerned.

SECTION 7 — Not regulated.

SECTION 8 — Not regulated.

SECTION 9 — Not regulated.

SECTION 10 — Paleontological materials shall be placed, without exception, in collections or repositories meeting all the requirements set forth in the INTERNATIONAL CODE OF BOTANICAL NOMENCLATURE (SAINT LOUIS CODE, 2000) AND INTERNATIONAL COMMISSION OF ZOOLOGICAL NOMENCLATURE —or any other adopted to that effect, as provided by the BERNARDINO RIVADAVIA ARGENTINE MUSEUM OF NATURAL SCIENCES— for standard materials. This task shall be performed by trained staff, in order to fulfill the purposes of Act No. 25743. The NATIONAL INSTITUTE OF ANTHROPOLOGY AND LATIN AMERICAN THOUGHT, within the scope of the NATIONAL SECRETARIAT FOR CULTURE, shall provide the minimum requirements for the storage of archaeological objects, lots and collections in each region, bearing in mind its peculiarities. The local authorities may request that their specific requirements be taken into account.

The national enforcement agency shall intervene whenever there are discrepancies as to the cataloguing of materials.

SECTION 11 — Not regulated.

SECTION 12 — Not regulated.

SECTION 13 — The obligation to report the finding referred to in Section 13 of Act No. 25743 entails the obligation to suspend every activity in the site until the local enforcement agency acts as prescribed by law. In the meantime, the persons responsible for the estate shall adopt every measure aimed at preserving the site or the archaeological or paleontological objects.

Where appropriate, the term and characteristics of the occupation shall be agreed upon with the owners of the estate. When no agreement is reached, the temporary occupation or easement shall be provided for through an act passed by the relevant jurisdictions, without prejudice to the legal measures that may be requested in cases of emergency.

The natural or legal persons to carry out the research project shall provide for the need to make explorations before beginning the works in order to detect the presence of archaeological or paleontological remains, sites or objects. Should they find any, they shall facilitate their retrieval. Tasks performed to that effect shall be approved by the local enforcement agency.

When a natural or legal person commercially exploits fossil sites for industrial purposes, such as bentonite, diatomite, oyster fields, limestone, clay or other, samples shall be taken in the amount set by the local enforcement agency, which shall be stored in national or provincial museums or scientific institutions, depending on the jurisdiction.

If during the course of public or private works entailing land movements archaeological fossils or objects were found, or the existence of certain sectors, regions or areas constituting paleontological and/or archaeological sites were known, which, due to their size, economic or scientific value and/or state of preservation require special care, absolute or partial protection, retrieval or preservation, the local enforcement agency may request action from the National Executive, in order to provide for the temporary or definite suspension of such works or projects.

SECTION 14 — Not regulated.

SECTION 15 — Not regulated.

SECTION 16 — The reports mentioned in Section 16 of Act No. 25743 shall be made in writing, following the formalities set forth in the regulations regarding administrative procedures in each jurisdiction. They shall include the necessary descriptions for the identification of archaeological objects or collections or paleontological remains, according to the requirements of the local enforcement agency.

When information is requested from the relevant NATIONAL REGISTRY on objects, collections and/or sites registered in the provinces or in the AUTONOMOUS CITY OF BUENOS AIRES, such information shall be delivered provided the prior consent of the local enforcement authorities has been obtained and the requesting party's legitimate interest has been proven.

SECTION 17 — Not regulated.

SECTION 18 — Not regulated.

SECTION 19 — The offer referred to in Section 19 of Act No. 25743 shall be made before the relevant enforcement agency, according to whether the subject matter of such offer is an archaeological object or paleontological remains. This agency shall issue a decision and a report, and submit them to the NATIONAL EXECUTIVE, the relevant provincial agencies and the AUTONOMOUS CITY OF BUENOS AIRES, for them to decide on the matter in the term established in Section 19.

SECTION 20 — Not regulated.

SECTION 21 — Not regulated.

SECTION 22 — If no agreement is reached with the individual owners of archaeological or paleontological collections, remains or objects as regards access to such property, the local enforcement agency shall file an administrative and judicial action before the relevant agency.

SECTION 23 — A copy of the administrative actions for granting licenses to conduct exploration and research referred to in Section 23 of Act No. 25743 shall be submitted to the relevant NATIONAL REGISTRY.

SECTION 24 — Official scientific institutions or universities, whether national or provincial, shall make sure the plans of action for the research projects, dissertations, theses and seminars meet the requirements set forth under Section 24 of Act No. 25743.

For a license to be granted, works shall be the responsibility of or directed by persons whose skills are certified by national professional associations, universities or academies.

The local enforcement agencies reserve the right to grant or deny a license regardless of whether the applicant meets or fails to meet the legal requirements, or for reasons of timeliness, merit or convenience.

SECTION 25 — No license shall be granted to any foreign researcher or scientific institution when the national enforcement agency has not authorized so. These licenses shall only be granted when the applicants are working with an Argentine scientific institution or university run by the government and provided all other necessary requirements are met, so as to prevent alteration or damage to the Nation's archaeological and paleontological heritage.

SECTION 26 — When the consent of the estate owner cannot be obtained, the procedures provided for the temporary occupation and easement shall be followed, as set forth in Sections 36 and 37 of Act No. 25743.

The local enforcement agency may request legal conservation measures, following the provisions in the aforementioned sections, without prejudice to those applicable as per each jurisdiction's procedural codes.

SECTION 27 — Appeals against the denial of licenses shall comply with the administrative procedures effective in each jurisdiction.

SECTION 28 — For paleontological or archaeological interdisciplinary works, the local enforcement agency shall be empowered to authorize research projects to be conducted in the same area or region on different subjects, so that studies on different aims and disciplines can be carried out simultaneously.

SECTION 29 — Not regulated.

SECTION 30 — Not regulated.

SECTION 31 — Individual or institutional licensees shall immediately submit the items and materials they remove for their inspection.

SECTION 32 — Not regulated.

SECTION 33 — Failure to resolve disputes or claims in the term prescribed by law shall be settled pursuant to the administrative procedures effective in each jurisdiction.

SECTION 34 — Not regulated.

SECTION 35 — Not regulated.

SECTION 36 — When no agreement is reached with the owners, the local enforcement authority may request the passing of an act providing for the temporary occupation or easement pursuant to Section 36 of Act No. 25743, without prejudice to the legal measures that may be requested in cases of emergency.

SECTION 37 — The procedure in the foregoing section shall also apply for permanent easement.

SECTION 38 — For those cases where it is impossible or very difficult to ascertain the value of the property, the fine established in Section 38 (b) of Act No. 25743 shall be set at between 10 (TEN) and 100 (ONE HUNDRED) minimum salaries or their equivalent, according to the seriousness of the infringement. Such amount shall be set by the relevant local enforcement agency.

SECTION 39 — Not regulated.

SECTION 40 — The fine referred to in Section 40 of Act No. 25743 shall be set pursuant to Section 38 herein.

SECTION 41 — Notice may be given in person or by any other reliable means stating the contents and reception, or through edicts to be published for 3 (THREE) days in at least 3 (THREE) of the major newspapers in each place or, failing that, any local newspaper.

SECTIONS 42, 43 and 44 — Fines set in Sections 42, 43 and 44 of Act No. 25743 shall be governed by Section 38 herein.

SECTION 45 — Not regulated.

SECTION 46 — Not regulated.

SECTION 47 — Not regulated.

SECTION 48 — Not regulated.

SECTION 49 — Not regulated.

SECTION 50 — Holders of archaeological objects and paleontological remains shall request the authorization of the local enforcement agency to move such property to another place, at the risk of being punished as provided in Section 44 of Act No. 25743.

SECTION 51 — The national enforcement agency shall adopt the necessary measures to ensure the recovery and return to the country of archaeological and paleontological property transferred abroad, without prejudice to the action that may be taken by the local enforcement agencies. Such agencies may challenge these transfers when they deem that the conditions for recovery and return are not ideal, by virtue of the concurrent powers set forth in Section 7 of Act No. 25743.

SECTION 52 — Not regulated.

SECTION 53 — Not regulated.

SECTION 54 — Not regulated.

SECTION 55 — Not regulated.

SECTION 56 — Not regulated.

SECTION 57 — Not regulated.

SECTION 58 — Not regulated.

SECTION 59 — Not regulated.

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*Yo, María Marta Semberoiz, Traductora Pública, por la presente HAGO CONSTAR que la que antecede es traducción fiel y completa al inglés del documento en castellano que tengo ante mí y al cual me remito. EN FE DE LO CUAL estampo mi firma y sello en la ciudad de Buenos Aires, a los 27 días del mes de junio de 2007.-----*

