THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5362 GIBRALTAR Thursday 26th November 2026

B. 34/26

BILL

FOR

AN ACT to amend the Heritage and Antiquities Act 2018.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Heritage and Antiquities (Amendment) Act 2026.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Heritage and Antiquities Act 2018.

3.(1) The Heritage and Antiquities Act 2018 is amended in accordance with the provisions of this section.

(2) In section 3─

(a) after the definition of "1972 UNESCO Convention" insert ─

""ancient human remains" means ─

(a) the body, or any part of the body, of a once living member of the genus Homo, including that defined as sapiens or neanderthalensis, whether or not fossilised or mineralised, and

(b) which derive, or are reasonably believed by the Curator to derive, from an individual who died, or who is reasonably believed by the Curator to have died, not less than 100 years before the date on which the remains are found or otherwise first come to be dealt with under this Act;

but does not include human remains which are the subject of a criminal investigation or the jurisdiction of the Coroner, (as defined in the Coroner Act) for so long as that investigation or jurisdiction continues;"

(b) in the definition of "antiquity or object of interest", in paragraph (c), for "ancient human, animal or plant remains" substitute "ancient human remains and ancient animal or plant remains";

(3) After section 37, insert ─

"PART 7A

ANCIENT HUMAN REMAINS

Treatment of ancient human remains with dignity and respect.

37A.(1)Any person who excavates, removes, holds, stores, conserves, studies, analyses, displays, lends or otherwise deals with ancient human remains under or for the purposes of this Act, including the Curator, the Archaeological Officer and any person acting under a consent, licence, direction or authorisation granted under this Act, shall do so with dignity and respect having regard to─

(a) the scientific, historical and cultural significance of the ancient human remains; and

(b) where known, the views of any community or person having a genealogical, cultural or other close connection with the ancient human remains.

(2) No person shall, without the prior written consent of the Minister given after consultation with the Council and the Curator─

(a) carry out any destructive or invasive sampling or analysis of ancient human remains held by or on behalf of the Museum; or

(b) publicly display ancient human remains held by or on behalf of the Museum.

(3) A consent under subsection (2) may be granted either unconditionally or subject to conditions, may relate to a particular activity or to a class of activities and may at any time, after consultation with the Council and the Curator, by notice in writing to the Curator, vary, suspend or revoke a consent deemed to have been granted under subsection (2).

(4) A person who contravenes subsection (2), or fails to comply with any condition attached to a consent granted under that subsection, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) For the purposes of subsection (2), "destructive or invasive sampling or analysis" means sampling or analysis which removes, consumes, alters or is likely materially to damage any part of human remains, but does not include non-invasive examination or imaging.

(6) An application for consent under subsection (2) shall be made to the Minister in such manner and shall be accompanied by such information as the Minister may reasonably require, but as a minimum shall contain—

(a) a description of the human remains and their known provenance;

(b) the purpose and proposed method of the activity;

(c) the expected benefits and any risks to the ancient human remains;

(d) whether a less invasive or less intrusive alternative is reasonably available;

(e) the proposed arrangements for conservation, storage, security and, where relevant, display and interpretation; and

(f) details of any consultation undertaken with a community or person referred to in subsection (1)(b).

Return of ancient human remains to Gibraltar.

37B.(1) The Minister may, on behalf of the Government, seek, negotiate, receive or otherwise facilitate the return to Gibraltar of any ancient human remains which were found in, or otherwise originate from, Gibraltar and which are held outside Gibraltar.

(2) The return referred to in subsection (1) may take the form of repatriation, permanent transfer, custodianship, long-term loan or any other arrangement the Minister considers appropriate.

(3) For the purposes of subsection (1), the Minister may, after consultation with the Council and the Curator, enter into agreements or arrangements with any government, public authority, museum, university or other institution or person, including arrangements as to—

(a) the care, conservation, storage and security of the ancient human remains;

(b) continued access to the ancient human remains for legitimate scientific research, education or archaeological purposes;

(c) research collaboration, sampling and destructive or invasive analysis;

(d) display and public interpretation; and

(e) the duration, renewal and termination of any loan or custodial arrangement; and

(f) such other matters which the Minister considers appropriate

(4) Ancient human remains returned to Gibraltar under this section shall be delivered to the Curator and, subject to the terms of any agreement or arrangement entered into under subsection (3), sections 35 and 36 shall apply to them.

(**5**) Nothing in this section shall be construed as determining title to any ancient human remains removed from Gibraltar before the commencement of this section."

Transitional provision.

4.(1) Where, immediately before commencement of this Act, any ancient human remains were on public display by or on behalf of the Museum, consent under section 37A(2)(b) of the Heritage and Antiquities Act 2018 shall be deemed to have been granted on the date this Act comes into operation for the continued public display of those ancient human remains in the manner and at the place in which they were displayed immediately before that date.

(2) The Minister may at any time, after consultation with the Council and the Curator, by notice in writing to the Curator, vary, suspend or revoke a consent deemed to have been granted under subsection (1), or attach conditions to it.

(3) Subject to any variation, revocation or condition under subsection (2), a consent deemed to have been granted under subsection (1) shall have effect as if it were a consent granted under section 37A(2)(b) of the principal Act, and section 37A(3) and (4) of the principal Act shall apply to it, and to any condition attached to it, accordingly.

EXPLANATORY MEMORANDUM

This Act amends the Heritage and Antiquities Act 2018 to introduce a definition of "ancient human remains" which expressly includes the body, or parts of the body, of a once living member of the genus Homo, including that defined as sapiens or neanderthalensis, whether or not fossilised or mineralised, who died or is reasonably believed by the Curator to have died not less than 100 years before the date on which the remains are found or otherwise first come to be dealt with under this Act, save for any remains which are the subject of a criminal investigation or under the jurisdiction of the Coroner. It makes clear that ancient human remains within that definition are antiquities or objects of interest for the purposes of that Act.

The Act also inserts a new Part 7A which establishes that ancient human remains are to be treated with dignity and respect, requires ministerial consent for destructive analysis and public display of ancient human remains held by the Museum, and empowers the Minister to seek and facilitate the return to Gibraltar of ancient human remains originating in Gibraltar.

Section 4 makes transitional provision deeming consent to have been granted for the continued display of ancient human remains on public display by the Museum at commencement, subject to the Minister's power to vary, revoke or attach conditions to that consent.

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