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## **Federal Act on the Protection of Nature and Cultural Heritage (NCHA)<sup>1</sup>**

of 1 July 1966 (Status as of 1 January 2022)

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*The Federal Assembly of the Swiss Confederation,*  
based on Article 78 paragraph 4 of the Federal Constitution<sup>2</sup>,  
in implementation of the Nagoya Protocol of 29 October 2010<sup>3</sup> on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol),  
and having considered the Federal Council Dispatch dated 12 November 1965<sup>4,5</sup>  
*decrees:*

### **Art. 1<sup>6</sup>**

- Aim      The aim of this Act, subject to the authority of the Confederation under Article 78 paragraphs 2–5 of the Federal Constitution, is:<sup>7</sup>
- a.      to carefully manage and protect heritage landscapes and sites of local character, historical sites, and the country's natural and cultural monuments, and to promote their preservation and up-keep;

AS **1966** 1637

<sup>1</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS **1996** 214; BBl **1991** III 1121).

<sup>2</sup> SR **101**

<sup>3</sup> SR **0.451.432**

<sup>4</sup> BBl **1965** III 89

<sup>5</sup> Amended by the Annex to the FD of 21 March 2014 (Nagoya Protocol), in force since 12 Oct. 2014 (AS **2014** 2629; BBl **2013** 3009).

<sup>6</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS **1996** 214, BBl **1991** III 1121).

<sup>7</sup> Amended by the Annex to the FD of 21 March 2014 (Nagoya Protocol), in force since 12 Oct. 2014 (AS **2014** 2629; BBl **2013** 3009).

- b. to support the cantons in fulfilling their tasks in the fields of nature protection, cultural heritage protection and monument preservation, and to ensure cooperation with them;
- c. to support the endeavours of organisations active in the fields of nature protection, cultural heritage protection or monument preservation;
- d.<sup>8</sup> to protect indigenous flora and fauna, their biological diversity and their natural habitats;
- d<sup>bis</sup>.<sup>9</sup> to promote the conservation of biological diversity and the sustainable use of its components through the fair and equitable sharing of benefits arising from genetic resources;
- e.<sup>10</sup> to promote science and research and the education and training of experts in the fields of nature protection, cultural heritage protection and monument preservation.

## Section 1 Nature Protection, Cultural Heritage Protection and Monument Preservation in the Fulfilment of Federal Tasks<sup>11</sup>

### Art. 2

Fulfilment of  
federal tasks

<sup>1</sup> The fulfilment of federal tasks as defined in Article 24<sup>sexies</sup> paragraph 2 of the Federal Constitution<sup>12</sup> is taken to mean in particular:<sup>13</sup>

- a.<sup>14</sup> the planning, construction and alteration of works and installations by the Confederation, its institutions and enterprises, such as buildings and installations of the federal administration, national roads, and buildings and installations of the Swiss Federal Railways;
- b. the issuing of licences and authorisations, such as those for the construction and operation of transport infrastructure and facil-

<sup>8</sup> Amended by Annex No 2 of the Gene Technology Act of 21 March 2003, in force since 1 Jan. 2004 (AS **2003** 4803; BBl **2000** 2391).

<sup>9</sup> Inserted by the Annex to the FD of 21 March 2014 (Nagoya Protocol), in force since 12 Oct. 2014 (AS **2014** 2629; BBl **2013** 3009).

<sup>10</sup> The amendment in accordance with the FA of 20 June 2014 on Continuing Education and Training, in force since 1 Jan. 2017, relates on to the French and Italian texts (AS **2016** 689; BBl **2013** 3729).

<sup>11</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS **1996** 214; BBl **1991** III 1121).

<sup>12</sup> [AS **1962** 749]. Now Art. 78 para. 2 of the Federal Constitution of 18 April 1999 (SR **101**).

<sup>13</sup> Amended by Annex No 2 of the Genetic Engineering Act of 21 March 2003, in force since 1 Jan. 2004 (AS **2003** 4803; BBl **2000** 2391).

<sup>14</sup> Amended by No 7 of the Annex to the Telecommunications Enterprises Act of 30 April 1997, in force since 1 Jan. 1998 (AS **1997** 2480; BBl **1996** III 1306).

ities (including approval of plans) and of works and installations for conveying energy, liquids or gases, and for telecommunications, as well as authorisations for forest-clearing operations;

- c. the provision of subsidies for planning, works and installations, e.g. for land improvement projects, renovation of agricultural buildings, river training, water body protection structures and transport infrastructure.

<sup>2</sup> Decisions of cantonal authorities concerning projects that can presumably be carried out only with subsidies as specified in paragraph 1c above shall be regarded as equivalent to the fulfilment of federal tasks.<sup>15</sup>

### Art. 3

Obligations of the Confederation and cantons<sup>16</sup>

<sup>1</sup> In the fulfilment of federal tasks, the Confederation, its institutions and enterprises, and the cantons shall ensure that heritage landscapes and sites of local character, historical sites, and natural and cultural monuments are carefully managed and, where there is an overriding public interest, preserved undiminished.<sup>17</sup>

<sup>2</sup> They shall fulfil this obligation by:

- a. suitably designing and maintaining their own buildings and installations, or by foregoing their construction altogether (Art. 2 let. a);
- b. imposing conditions or requirements on the issue of licences and authorisations, or refusing to issue them (Art. 2 let. b);
- c. restricting or refusing subsidies (Art. 2 let. c).

<sup>3</sup> This obligation applies regardless of the significance of the site as defined in Article 4. A measure must not go beyond what is required to protect the site and its surroundings.

<sup>4</sup> ...<sup>18</sup>

### Art. 4

Classification of sites

<sup>15</sup> Inserted by No I 3 of the FA of 18 June 1999 on the Coordination and Simplification of Decision-Making Procedures, in force since 1 Jan. 2000 (AS **1999** 3071; BBl **1998** 2591).

<sup>16</sup> Amended by No I 3 of the FA of 18 June 1999 on the Coordination and Simplification of Decision-Making Procedures, in force since 1 Jan. 2000 (AS **1999** 3071; BBl **1998** 2591).

<sup>17</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS **1996** 214; BBl **1991** III 1121).

<sup>18</sup> Inserted by No I 3 of the FA of 18 June 1999 on the Coordination and Simplification of Decision-Making Procedures (AS **1999** 3071; BBl **1998** 2591). Repealed by the Annex to the FD of 21 March 2014 (Nagoya Protocol), with effect from 1 Sept. 2014 (AS **2014** 2629; BBl **2013** 3009).

With regard to heritage landscapes and sites of local character, historical sites, and natural and cultural monuments within the meaning of Article 24<sup>sexies</sup> paragraph 2 of the Federal Constitution<sup>19</sup>, a distinction must be made between:

- a. sites of national importance;
- b. sites of regional and local importance.

### Art. 5

Federal inventories of sites of national importance

<sup>1</sup> After consultation with the cantons, the Federal Council shall prepare inventories of sites of national importance; these may be based on existing inventories drawn up by official institutions and organisations active in the fields of nature protection, cultural heritage protection or monument preservation.<sup>20</sup> The principles determining the selection of sites shall be stated in the inventories, which must also include at least the following details:

- a. a precise description of the sites;
- b. justification for their national importance;
- c. possible threats;
- d. existing protection measures;
- e. the level of protection aimed for;
- f. proposals for improvements.

<sup>2</sup> The inventories need not be exhaustive. They must be reviewed and updated at regular intervals. Decisions on the inclusion, revision or deletion of sites shall be taken by the Federal Council after consultation with the cantons. The cantons may request a review on their own initiative.

### Art. 6

Importance of inclusion in an inventory

<sup>1</sup> The inclusion of a site of national importance in a federal inventory indicates that it particularly deserves to be preserved undiminished, or in any case to be managed with the greatest possible care, including the application of restoration or appropriate replacement measures.<sup>21</sup>

<sup>2</sup> In fulfilling a federal task, departures from the principle that sites are to be preserved undiminished, as specified in the inventories, may only be considered if opposing interests, also of national importance, carry equal or greater weight.

<sup>19</sup> [AS 1962 749]. Now Art. 78 para. 2 of the Federal Constitution of 18 April 1999 (SR 101).

<sup>20</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS 1996 214; BBl 1991 III 1121).

<sup>21</sup> Amended by No I 3 of the FA of 18 June 1999 on the Coordination and Simplification of Decision-Making Procedures, in force since 1 Jan. 2000 (AS 1999 3071; BBl 1998 2591).

**Art. 7<sup>22</sup>**

Expert report prepared by commission

<sup>1</sup> If the Confederation is responsible for the fulfilment of a federal task, then, depending on its remit, either the Federal Office for the Environment (FOEN), the Federal Office of Culture or the Federal Roads Office shall assess whether it is necessary for an expert report to be prepared by a commission as specified in Article 25 paragraph 1. If the canton is responsible, this assessment shall be made by the cantonal expert body as specified in Article 25 paragraph 2.<sup>23</sup>

<sup>2</sup> If, in connection with the fulfilment of a federal task, a site listed in a federal inventory in accordance with Article 5 may be significantly damaged or fundamental issues are raised, the commission shall prepare an expert report for the decision-making authority, indicating whether the site should be preserved undiminished or how it must be protected.

<sup>3</sup> The expert report shall be one of the factors considered by the decision-making authority when weighing up all the interests.<sup>24</sup>

**Art. 8<sup>25</sup>**

Optional expert report

In important cases, a commission may, on its own initiative, at any stage of the procedure, submit an expert report concerning the protection of sites or their preservation in an undiminished form. However, reports shall be submitted as early as possible. All necessary documentation shall be made available to the commission on request.

**Art. 9<sup>26</sup>**

Other expert reports

The competent federal body may also request the cantonal expert body (Art. 25 Para. 2), the cantonal commission responsible for nature protection, cultural heritage protection or monument preservation, or another body designated by the canton to prepare an expert report. In addition, it may request organisations active in the fields of nature protection, cultural heritage protection or monument preservation to submit their comments.

<sup>22</sup> Amended by No I No 3 of the FA of 18 June 1999 on the Coordination and Simplification of Decision-Making Procedures, in force since 1 Jan. 2000 (AS 1999 3071; BBl 1998 2591).

<sup>23</sup> Amended by the Annex to the FD of 21 March 2014 (Nagoya Protocol), in force since 1 Sept. 2014 (AS 2014 2629; BBl 2013 3009).

<sup>24</sup> Inserted by No I of the FA of 27 Sept. 2019, in force since 1 April 2020 (AS 2020 1217; BBl 2019 349 1335).

<sup>25</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS 1996 214; BBl 1991 III 1121).

<sup>26</sup> Amended by No I of the FA of 24 March 1995, in force since 1 Feb. 1996 (AS 1996 214; BBl 1991 III 1121).