

## THE NATIONAL ARCHIVES ACT 1999

**Act No. 22 of 1999***I assent*

CASSAM UTEEM

20<sup>th</sup> August, 1999*President of the Republic*

## ARRANGEMENT OF SECTIONS

*Section***PART I-PRELIMINARY**

1. Short title
2. Interpretation

**PART II – NATIONAL ARCHIVES**

3. The National Archives Department
4. The Director of National Archives
5. Duties of the Director
6. Deposit of copies of film archives
7. Miscellaneous deposits in the National Archives
8. Deposit of private archives
9. Acquisition of other records
10. Archival material vested in Curator
11. Auction sale of archival material
12. Conservation Unit
13. Access to public archives
14. Deposit by users of archives publication
15. Powers of the Minister

**PART III – THE PUBLIC RECORDS APPRAISAL COMMITTEE**

16. Interpretation
17. Establishment of Public Records Appraisal Committee
18. Composition of Committee

19. Notification of disposal of public record to Director
20. Procedure for disposal
21. Destruction of Public Records
22. Powers of the Director of the National Archives
23. Notification of non-current records
24. Advice on preservation
25. Creation of a records centre
26. Declaration of public archives

**PART IV – THE NATIONAL ARCHIVES RESEARCH AND PUBLICATION FUND**

27. Interpretation
28. Establishment of a Research and Publication Fund
29. Composition of the Committee of Management
30. Objects of the Committee
31. Funding
32. Accounts
33. Institution of a Research Unit
34. Rules

**PART V – ARCHIVES ADVISORY COUNCIL**

35. Interpretation
36. Establishment of an Archives Advisory Council
37. Constitution of the Advisory Council
38. Meetings of the Advisory Council
39. Offences
40. Penalties
41. Jurisdiction
42. Regulations
43. Transitional provisions
44. Repeal
45. Commencement

**An Act**

**To amend and modernize the law relating to archives**  
 ENACTED by the Parliament of Mauritius, as follows –

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the National Archives Act 1999

## 2. Interpretation

In this Act –

“Department” means the National Archives Department established under section 3(1);

“Director” means the Director of the National Archives referred to in section 4(1);

“Minister” means the Minister to whom responsibility for the subject of archives has been assigned;

“Ministry” means the Ministry having the responsibility for the subject of archives;

“public archives”-

- (a) means any written record and any other record conveying information by any other means whatsoever;
- (b) includes any –
  - (i) formal document, paper, or police, judicial and hospital record 30 years old;
  - (ii) register, minute, file, letter, collection of manuscripts, diary, account, statistical material, card file, blue print, judgment, title deed, map, plan and book, drawing, picture, seal, stamp, coin, paper money, newspaper, poster, public announcement, proclamation;
  - (iii) photocopy, negative and positive of any still picture, film, microfilm, microfiche, sound recording including any cassette, punch card, floppy disk, magnetic disk, tape, compact disc and any machine-readable record;
  - (iv) list of such archival material and other archival finding aid as well as any other document of any kind including any document which is electronically recorded, and which has historical enduring value or is otherwise of public interest, which may be received on deposit, as a gift, or by way of donation, or acquired by the Director of National Archives, or which is the property of any Ministry or Department, local authority or any statutory corporation, institution

or organisation.

## PART II – NATIONAL ARCHIVES

### 3. The National Archives Department

(1) There is established, within the Ministry, for the purposes of this Act, a National Archives Department.

(2) The Department shall be the central repository of all public and other archives, whether donated to it or entrusted to its custody.

### 4. The Director of National Archives

(1) The Department shall be administered by a Director of National Archives who shall be –

- (a) a public officer;
- (b) an experienced archivist possessing high academic qualifications in the field of archives.

(2) The Director shall be assisted by a Deputy Director.

(3) There shall be appointed at the Department and for the purposes of this Act such officers as may be necessary for the proper discharge of the functions and duties of the Director under this Act.

(4) The officers of the Department shall be public officers and shall be under the direct administrative control of the Director.

### 5. Duties of the Director

The Director shall –

- (a) have the custody, care and control of all public archives;

- (b) regulate the conditions under which members of the public may consult the public archives and make use of the facilities provided by the Department;
- (c) inspect regularly, within office hours, and after due notice has been given, public archives lying in repository other than the Department;
- (d) collect information relating to any document of public interest with a view to compiling a comprehensive register of private archives;
- (e) ensure the physical protection, conservation and restoration of all public archives entrusted to the custody of the Department and make them available for research purposes;
- (f) arrange the archives according to established principles of archival administration and prepare all the reference instruments;
- (g) provide for the making and authentication of copies of, and extracts from, records, required as evidence in legal proceedings or for other purposes;
- (h) provide for the separate housing of films, sound recordings and other machine readable records which have to be kept under special conditions;
- (i) provide for the training of the staff of the Department;
- (j) provide for the recording and keeping of oral history archives;
- (k) produce and publish documentary materials for educational purposes and for the public at large;
- (l) disseminate such information as may be of interest to the public at large;
- (m) release after a period of 30 years official records for public research;
- (n) lend records in a case where the Minister gives his approval for display at commemorative exhibitions or any other special occasion;

- (o) for the preservation of the collective memory of the nation, acquire, receive on deposit, or receive as a gift or by way of donation, any document, or other matter either locally or from abroad.

#### **6. Deposit of copies of film archives**

- (1) The Director shall create a separate film archives section.
- (2) Any maker or producer of any artistic, documentary or commercial film shall deposit one copy of such film with the Director.

#### **7. Miscellaneous deposits in the National Archives**

- (1) The following specimens shall be deposited regularly with the Director free of charge –
  - (a) one copy of every ordinary, extraordinary or special issue of every newspaper, periodical or other serial publication in any language, offered for sale to the public, by the publisher or editor thereof within 72 hours of its publication;
  - (b) one copy of any annual, financial, statistical or special report on any subject and of any directory or calendar issued by any governmental or non-governmental organization by the publisher thereof within 72 hours of its publication;
  - (c) a specimen of every issue and First Day Cover of Mauritian postage stamps, by the Postmaster General within one month of the issue with an official statement containing the history and purpose of the issue;
  - (d) one certified copy of the minutes of proceedings of every municipality, district or village council, by the town clerk or secretary of such municipality or council respectively within a fortnight of the approval of the minutes;

- (e) a specimen of every issue of currency notes and coins by the Bank of Mauritius within one month of the issue with an official statement containing the history and purpose of the issue;
- (f) one certified copy of the Supreme Court record of any matter dealing with property which is “du domaine public”, by the Registrar within a fortnight of the judgment;
- (g) one copy of every plan and map produced in the Republic of Mauritius;
- (h) one copy of any civil status index regarding births, deaths and marriages, by the Registrar, Civil Status Office;
- (i) any notarial deed which is 60 years old, by the Notary Public who had drawn, or who has the charge of the deed;
- (j) any other document or record which the Minister may by regulations direct to be deposited with the Director.

(2) Any person who is required under subsection (1) or any regulations made under this Act to make a deposit with the Director and who fails to do so shall commit an offence.

### **8. Deposit of private archives**

- (1) Any person may deposit either temporarily or permanently with the Director any private document which the Director considers to be of sufficient archival value and stipulate on which terms and conditions members of the public shall have access to the document deposited.
- (2) Any private archives deposited under subsection (1) and which have not been claimed shall become the property of the State of Mauritius after a period of 30 years as from the date of their deposit.

### **9. Acquisition of other records**

The Director may acquire by contract or testamentary bequest or otherwise-

- (a) any original record, document or other historical material or copy or replica thereof as he considers necessary or desirable to obtain for inclusion in the public archives;
- (b) any map, plan, chart relating to Mauritius and published abroad.

### **10. Archival material vested in Curator**

(1) Where the Curator of Vacant Estates on taking possession of any property that is by law vested in him believes that such property contains a document that constitutes a record of historical or public interest, he shall immediately inform the Director of that fact.

(2) The Director may, if he considers it desirable, obtain the approval of the Minister to have such document or record transferred to the Department, subject to such compensation as the Minister may, after due appraisal and evaluation by a Government Valuer, order to be paid over to the estate vested in the Curator.

### **11. Auction sale of archival material**

(1) Where any sworn auctioneer puts up for sale any property purporting to be a record of historical value or of public interest he shall notify the Director in writing of such sale at least 7 clear days prior to the sale.

(2) The Director may, after obtaining the approval of the Minister, purchase the property directly from the seller or by bidding at the auction sale or subsequently from the adjudicatee.

### **12. Conservation Unit**

(1) There shall be established, within the Department, a Conservation Unit headed by a qualified conservator.

(2) The Unit shall cater for the following main aspects of conservation-

- (a) preventive conservation;
- (b) restorative conservation;
- (c) content conservation.

### **13. Access to public archives**

(1) The public archives in the Department shall, subject to any regulations made under this Act to subsection (2) be made accessible to the public in the research room of the Department.

- (2) The Director may refuse access to any member of the public to any public archives, which he considers-
- (a) may cause –
    - (i) prejudice to any other member of the public; or
    - (ii) social unrest in the country;
  - (b) It is not in the public interest so to do.
- (3) The Director shall, on request and against payment, provide to any member of the public a photocopy or extract of any document, other than a document –
- (a) which may prejudice the legitimate interests of the copyright owner thereof;
  - (b) of which, a photocopy or extract cannot be made due to its physical condition.
- (4) Nothing in subsection (1) shall affect the power of any competent Court or Judge in Chambers to order the production of any public archives in any proceedings instituted before such Court or Judge in Chambers.
- (5) Any person feeling aggrieved by a decision of the Director under this section may appeal to the Minister.

#### **14. Deposit by users of archives publication**

Any person who uses any public archives for the publication of any book, magazine, dissertation, memoir, thesis or any other writing shall acknowledge in such publication the public archive material used and deposit a copy of the publication with the Director.

#### **15. Powers of the Minister**

- (1) The Minister may recommend to the Director the release of any document in the public interest notwithstanding section 5 (m).
- (2) The Minister may give such directions of a general nature, not inconsistent with this Act, to any Committee constituted under this Act.

### **PART III – THE PUBLIC RECORDS APPRAISAL COMMITTEE**

#### **16. Interpretation**

In this Part –

“Committee” means the Public Records Appraisal Committee set up under section 17;

“disposal” means the retention for a limited period or transfer to an archival institution or outright destruction of a public record;

“non-current record” means a record which has been created for some specific purpose and which is no longer required for current use;

“public body” means any –

- (a) Ministry or Government Department;
- (b) local authority;
- (c) statutory corporation, institution or organization.

“Records Centre” means the Records Centre established under section 25;

“responsible officer” means, in the case of –

- (a) a Ministry or Government Department, the Head of such Ministry or Department;
- (b) a local authority, the Chairman or Mayor as the case may be;
- (c) a statutory corporation, institution or organization, the President or Chairman as the case may be.

#### **17. Establishment of Public Records Appraisal Committee**

(1) There shall be established, within the Department, a Public Records Appraisal Committee to control and appraise non-current records in every public body.

(2) The Committee may, subject to the approval of the Minister, make rules for the conduct of its proceedings and the proper disposal of its business.

(3) The Committee shall meet at such times and at such place as the Chairman may decide.

### 18. Composition of Committee

- (1) The members of the Committee shall be –
- (a) a Chairman who shall be the Director or his Deputy;
  - (b) a representation of the Attorney General's Office;
  - (c) a representative of the Audit Department;
  - (d) the Director of Statistics or his representative;
  - (e) a representative of the National Library;
  - (f) a historian from the Mauritius Institute of Education; and
  - (g) a historian from a registered History Association.

(2) The Committee shall co-opt a representative of the public body whose records are examined for the purposes of disposal.

### 19. Notification of disposal of public record to Director

Where the responsible officer of a public body is of opinion that any public record which is in his custody ought to be destroyed either immediately or after a given period of time on the grounds that it is not of sufficient value to justify its preservation in the Department, he shall so inform the Director.

### 20. Procedure for disposal

The Committee shall consider whether the public record specified in section 19 ought to be destroyed or disposed of in such manner as it decides.

### 21. Destruction of public records

- (1) Where the Committee decides that a public record is to be destroyed it shall give public notice of its decision in the Gazette and in 2 daily newspapers.
- (2) Any person may object to the destruction of a public record within 30 days of the publication of a notice under subsection (1).

(3) No public record shall be destroyed until the expiration of 30 days from the date of the publication of the notice.

(4) Where any person objects to the destruction of a public record under subsection (2), the Committee shall refer the matter to the Minister for his decision.

### 22. Powers of the Director of the National Archives

- (1) The Director may request the responsible officer of a public body to transfer any public record in his custody which is –
- (a) more than 15 years old and is no longer required for official purposes;
  - (b) the record of a Ministry or Government Department which has ceased to exist and is not required by any other Ministry or Department;
  - (c) the record of a commission, committee, board of enquiry or similar body appointed by the President of the Republic of Mauritius or any Minister or the National Assembly but which has ceased to exist.

(2) No public archives shall be transferred from their place of custody at the date of the commencement of this Act save with the consent or at the request of the Director.

### 23. Notification of non-current records

The responsible officer of a public body shall notify the Director of all non-current records in his custody and shall keep a register of these records which shall be inspected on prior arrangement by any officer deputed by the Director.

### 24. Advice on preservation

The Director shall advise all custodians of non-current records about the methods and norms for the preservation of these records.

## 25. Creation of a Records Centre

(1) There shall be established, within the Department, a Records Centre which shall be an intermediate repository to keep, according to established norms of preservation, non-current records awaiting final disposal.

(2) The Records Centre shall be administered by a Records Manager who shall be a public officer.

## 26. Declaration of public archives

(1) All public records shall be declared as archives after a period of 30 years from their creation and shall be transferred from the Records Centre to the Department.

(2) The Director shall acknowledge, in writing, the receipt of any public record transferred under subsection (1).

## PART IV – THE NATIONAL ARCHIVES RESEARCH AND PUBLICATION FUND

### 27. Interpretation

In this part –

“Committee” means the Committee of Management of the National Archives Research and Publication Fund mentioned under section 28;

“Fund” means the National Archives Research and Publication Fund established under section 28.

### 28. Establishment of a Research and Publication Fund

(1) There shall be established, within the Department, a National Archives Research and Publication Fund which shall be administered by a Committee of Management.

(2) The Fund shall be deemed to be a Special Fund for the purposes of the Finance and Audit Act.

## 29. Composition of the Committee of Management

(1) The Committee shall consist of –

(a) the Director as Chairman; and

(b) 7 other members including historians from the University of Mauritius, the Mauritius Institute of Education and the Mahatma Gandhi Institute to be appointed by the Minister.

(2) The Committee shall elect its office bearers from amongst its members.

(3) Five members shall constitute a quorum.

## 30. Objects of the Committee

The objects of the Committee shall be –

(a) to promote and encourage research in the public archives vested in the Department;

(b) to finance the publication of such research work or archival value produced by the Research Unit instituted under section 33;

(c) to consider for publication manuscripts of private individuals who have made extensive research in the public archives;

(d) to put on sale any such work published.

## 31. Funding

(1) There shall be paid annually into the Fund such sum of money as may be appropriated by the National Assembly.

(2) Any money received as donations and legacies by the Committee shall be paid into the Fund.

(3) Any money received from activities organized with the approval of the Committee shall be paid into the Fund.

(4) No disbursement shall be made from the Fund except in furtherance of the objects of the Committee.

(5) Article 910 of the Civil Code shall not apply to the Fund.

**32. Accounts**

The Committee shall, not later than 3 months after the end of each financial year, prepare and submit to the Director of Audit for certification –

- (a) an annual statement of the receipts and payments of the Fund for that financial year;
- (b) a balance sheet made up to the end of that financial year showing the assets and liabilities of the Fund.

**33. Institution of Research Unit**

(1) There shall be established, within the Department, a Research Unit.

(2) The Research Unit shall do research in the public archives with a view to publishing works of historical interest and providing background information for exhibitions and celebration of important events.

**34. Rules**

The Committee may make rules –

- (a) for the proper management of the Fund; and
- (b) generally, for carrying out the purposes of this Part of this Act.

**PART V – ARCHIVES ADVISORY COUNCIL****35. Interpretation**

In this Part –

“Advisory Council” means the Archives Advisory Council, established under section 36.

**36. Establishment of an Archives Advisory Council**

(1) There shall be established, within the Department, an Archives Advisory Council.

(2) The Advisory Council shall advise the Minister –

- (a) on any matter related to the acquisition, administration, conservation and exploitation of public archives;
- (b) on any other matter related to public archives referred to it by the Minister.

**37. Constitution of the Advisory Council**

The Advisory Council shall consist of –

- (a) a Chairman, who shall be a qualified Archivist to be appointed by the Minister;
- (b) a Secretary, who shall be the Director;
- (c) a representative of the National Library;
- (d) a representative of the University of Mauritius;
- (e) a representative of the Mahatma Gandhi Institute;
- (f) a representative of the Mauritius Institute of Education;
- (g) a historian appointed by the Minister.

**38. Meetings of the Advisory Council**

(1) The Advisory Council shall meet –

- (a) at least once every 3 months;
- (b) at such time and place as the Chairman may appoint.

(2) Four members shall constitute a quorum.

(3) The Advisory Council shall regulate its meetings in such manner as it deems fit.

**39. Offences**

(1) No person shall destroy any public record or public archives save in pursuance of a decision of the Public Records Appraisal Committee.

(2) No person shall knowingly mutilate, damage or in any way tamper with any public record or public archives.

**40. Penalties**

Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall on conviction be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.



**41. Jurisdiction**

Notwithstanding section –

(a) 114 of the Courts Act;

(b) 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try an offence under this Act or any regulations made under this Act and may impose any penalty provided by this Act or any regulations made under this Act .

**42. Regulations**

(1) The Minister may make such regulations as he deems fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for –

(a) the deposit of any document or record with the Director;

(b) the access of the public to public archives and the care and management thereof;

(c) the steps to be taken for the examination, disposal or destruction of any public archives which are not sufficient value to justify their preservation;

(d) the transfer of any public archives from the custody of any Ministry or Department, any local authority or public corporation, institution or organization to the Department;

(e) the conditions under which any body or person may deposit records with the Director;

(f) the fees and dues to be paid for making use of the public archives and for obtaining copies or replicas thereof;

(g) the publication of any public archives in the interests of historical research;

(h) the prohibition of the export or sale of any archival material;

(i) generally, the better carrying out of the purposes of this Act.

**43. Transitional provisions**

(1) On the day this Act comes into force, all assets and liabilities of the Archives Department established under the Archives Act, shall be transferred to and shall vest in the National Archives Department under this Act, and the National Archives Department shall have all powers necessary to take possession of, recover and deal with these assets and discharge these liabilities.

(2) On the day this Act comes into force, all archival material which is in the custody of –

(a) the Mahatma Gandhi Institute;

(b) any Ministry or department;

(c) any local authority;

(d) any statutory corporation;

shall be transferred to and shall vest in the National Archives Department.

**44. Repeal**

The following enactments are repealed –

(a) the Archives Act;

(b) the Archives Regulations 1953.

**45. Commencement**

This Act shall come into force on a date to be fixed by Proclamation.

Passed by the National Assembly on the twenty-seventh day of July one thousand nine hundred and ninety-nine.

**ANDRÉ POMPON**  
*Clerk of the National Assembly*