

Zambia

National Archives Act, 1969

Chapter 175

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Zambia

National Archives Act, 1969

Chapter 175

Commenced on 14 November 1969

[This is the version of this document at 31 December 1996.]

[44 of 1969; 13 of 1994]

An Act to provide for the preservation, custody, control and disposal of public archives, including public records of Zambia; and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the National Archives Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"Director" means the Director of National Archives of Zambia appointed as such under the provisions of subsection (1) of section five;

"judicial records" means all records of court which—

- (a) are in the custody of any court or of any officer of any court in his capacity as such; or
- (b) have been transferred to the National Archives of Zambia established under the provisions of this Act or any previous law;

"National Archives" means the National Archives of Zambia established under the provisions of section three and includes a place of deposit;

"place of deposit" means a place of deposit declared as such under section four;

"previous law" means the law relating to national archives in force within the former Protectorate of Northern Rhodesia or within the Republic prior to the commencement of this Act;

"public archives" means—

- (a) all public records which—
 - (i) are specified by the Director as being of enduring or historical value; and
 - (ii) have been transferred to the National Archives of Zambia established under the provisions of this Act or the previous law;
- (b) any records, document or other material acquired for the National Archives of Zambia in terms of paragraph (h) of subsection (2) of section five or in terms of similar provisions of the previous law;

"public records" means—

- (a) any records of the Government which—
 - (i) are in the custody of the Government; or
 - (ii) have been transferred to the National Archives of Zambia under the provisions of section nine or under similar provisions of the previous law;

- (b) any records of a corporation, society, association, institution or organisation which is prescribed by the Minister by statutory instrument and which—
 - (i) are in the custody of such corporation, society, association, institution or organisation; or
 - (ii) have been transferred to the National Archives of Zambia under the provisions of section nine;
- (c) any judicial records;

"records" includes papers, documents, registers, printed materials, books, maps, plans, drawings, photographs, micro-films, cinematograph films, sound recordings, photocopies, negatives and positives of pictures.

Part II – National Archives and place of deposit

3. Establishment of National Archives of Zambia

There is hereby established the National Archives of Zambia wherein shall be stored and preserved public archives other than those which are to be kept in some other place of deposit under the provisions of this Act.

4. Other places of deposit

- (1) If it appears to the Minister that facilities exist for the safe-keeping and preservation of public records and their inspection by the public in some place other than the National Archives and that convenience so requires, he may, with the agreement of the authority responsible for that place, declare by statutory instrument that place to be a place of deposit for public records of a particular category or particular categories.
- (2) Where the Minister declares any place to be a place of deposit for any category or categories of public records, such records of such category or categories which are selected for preservation shall be transferred to and preserved in that place of deposit in lieu of the National Archives and, in relation to such records, the provisions of this Act shall have effect accordingly.

Part III – Director of National Archives and custodians of places of deposit

5. Director of National Archives of Zambia

- (1) There shall be a Director of National Archives of Zambia who shall be a public officer and who shall be responsible for the carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Director—
 - (a) shall direct, manage and control the National Archives;
 - (b) shall preserve, describe and arrange all public archives;
 - (c) shall accept and store any public records which are transferred to the National Archives;
 - (d) may, if in his opinion it is necessary for their better preservation, bind or repair any public archives;
 - (e) shall, at the request of a Government department, examine any public records in the custody of such department and advise such department as to the care and custody thereof;
 - (f) shall, at the request of a corporation, society, association, institution or organisation which is prescribed by the Minister by statutory instrument, examine any public records in the

custody of such corporation, society, association, institution or organisation and advise it as to the care and custody thereof;

- (g) may reproduce or publish such public archives as he may think fit:

Provided that, in the case of public archives falling within paragraph (b) of the definition of "public archives", no such reproduction or publication shall take place without the consent of the person from whom such archives were acquired;

- (h) may acquire by purchase, donation, bequest or otherwise any document, book or other material which in the opinion of the Director is or is likely to be of enduring or historical value;
- (i) may compile, make available and publish indices and guides to public archives in the National Archives;
- (j) may prepare publications concerning the activities of and the facilities provided by the National Archives;
- (k) may regulate the conditions under which members of the public may inspect public archives in, or use the facilities of, the National Archives;
- (l) may provide for the making and authentication of copies of and extracts from public archives in the National Archives required as evidence in legal proceedings or for other purposes;
- (m) may lend public archives in the National Archives for display at commemorative exhibitions or for other special purposes;
- (n) may perform such other functions as are necessary for the purpose of the direction, management and control of the National Archives.

6. Custodians of places of deposit and powers of Director in respect of such places

- (1) Where the Minister declares any place of deposit under section four, he shall make arrangements with the authority responsible for that place for the appointment as occasion may require of a suitable person as custodian of the public archives kept therein.
- (2) A person appointed custodian of the public archives in any place of deposit shall, subject to the direction of the Minister and to the supervision and instructions of the Director, have the charge of, and be responsible for the preservation of, the public archives therein.
- (3) The Director shall have access to every place of deposit, may exercise, in relation to any place of deposit and to the public archives therein, the functions and powers conferred on him by this Act in relation to National Archives and the public archives therein, and may delegate to the custodian of the public archives in any such place any of such functions and powers other than the power of affixing the seal of the National Archives.

7. Seals

- (1) There shall be an official seal of the National Archives of a design approved by the Minister.
- (2) The seal of the National Archives shall be kept in the custody of the Director and may be used for the purposes of the National Archives and for the purposes of any place of deposit for which no separate seal is provided.
- (3) The Minister may approve an official seal for the purposes of any place of deposit and any such seal shall be kept in the custody of the custodian of the public archives in that place.
- (4) The official seal of the National Archives and any seal provided under this Act for the purposes of any place of deposit shall be judicially noticed.

8. Secrecy

Where there are transferred to the National Archives or any place of deposit any public records containing information the disclosure of which is, by written law, prohibited or limited to certain purposes, the Director, the custodian of the public archives in such place and every member of the staff of the National Archives or such place who has access to such records shall take such oath or make such declaration relating to secrecy, with such modifications as the circumstances require, as is required by the relevant written law to be taken or made by persons having access to such records prior to their transfer; and every person who takes such oath or makes such declaration shall, for the purposes of any provisions of such written law making punishable any disclosure in contravention of the written law, be deemed to be a person employed in carrying out the provisions of the relevant written law.

Part IV – Selection of and access of public records

9. Selection and preservation of public records and transfer to National Archives

- (1) Subject to the provisions of subsection (2), the Director and any officer of the National Archives authorised by him shall have power to examine public records which have not been transferred to the National Archives and select those which ought to be preserved and transferred to the National Archives.
- (2) Nothing in this section or section five shall be deemed to empower the Director or any officer authorised by him to inspect any public records that are classified as secret or confidential, except with the consent of the authority having the custody thereof.
- (3) Subject to the provisions of subsection (2), it shall be the duty of every person responsible for or having the custody of public records which have not been transferred to the National Archives—
 - (a) to afford the Director and any officer authorised by him in that behalf appropriate facilities for examination and selection as mentioned in subsection (1); and
 - (b) to provide for the assemblage and safe-keeping, in accordance with any regulations made under this Act and the directions of the Director, of those public records which are selected for preservation and public records, whether or not examined by the Director or any officer authorised by him, which the Director has directed shall be preserved, pending their transfer to the National Archives.
- (4) Public records selected by the Director shall be transferred to the National Archives or a place of deposit as the Director shall direct:

Provided that, subject to the approval of the Minister, the transfer of any such records to the National Archives or the place of deposit may be withheld for the time being if, in the opinion of the person having the custody thereof, the said records are required for administrative purposes or ought to be retained for any other special reason and appropriate provision will be made for the preservation of such records.

10. Destruction of archives and public records

If as respects any public archives in the National Archives or public records selected for, but not transferred to, the National Archives it appears to the Director that the same is duplicated or that there is some other special reason why the archives or records should not be preserved, he may, with the approval of the Minister and of such other Minister or other person, if any, who appears to the Minister to be primarily concerned with public archives or records of the category in question, authorise the destruction of such archives or records or, with such approval, their disposal in any other way:

Provided that nothing in this section shall authorise or empower the Director to authorise the destruction or disposal of any public archives obtained otherwise than by transfer under section nine contrary to terms

or conditions on which they were obtained or, if they were obtained by gift, during the lifetime of the donor without his consent.

11. Access to public archives

- (1) Subject to any written law prohibiting or limiting the disclosure of information obtained from members of the public and to the provisions of this section, public archives which have been in existence for a period of not less than twenty years may be made available for public inspection, and it shall be the duty of the Director to provide reasonable facilities at such times and, on the payment of such fees as may be prescribed by regulations made under this Act, for the public to inspect or obtain copies or extracts from public archives in the National Archives:

Provided that a donor of public archives, other than public records, shall be entitled to specify appropriate conditions for access to such archives.

- (2) Notwithstanding the provisions of subsection (1), the Minister may, in respect of any public archives or any category thereof certified to him by the person by whom, or in charge of the office from which, the records concerned were transferred to the National Archives order that—
- (a) such public archives or category thereof ought not to be made available for public inspection, or order that such public archives or category thereof shall not be made available for public inspection until the expiration of such further period as may be specified in that or any subsequent order; or
 - (b) such public archives or category thereof may be made available for public inspection notwithstanding that such public archives have not been in existence for at least twenty years, or order that any such public archives or category thereof be made available for public inspection.
- (3) The Minister may delegate to the Director his powers under subsection (2) to afford, restrict or withhold access to public archives.
- (4) Nothing in this section shall be construed—
- (a) as limiting any right of inspection of any records to which members of the public had access before their transfer to the National Archives; or
 - (b) save to the extent provided by any such written law as is referred to in subsection (1), as precluding the Minister from permitting any person authorised by him to have access to any public archives or category thereof.

12. Inspection of public archives

- (1) Without the written authority of the Director, no person who is not an officer of the National Archives may inspect any public archives which—
- (a) have been transferred to the National Archives; and
 - (b)
 - (i) have been the subject of an order made by the Minister under the provisions of paragraph (a) of subsection (2) of section eleven; or
 - (ii) have not been in existence for at least twenty years, unless they are the subject of an order made by the Minister under the provisions of paragraph (b) of subsection (2) of section eleven.
- (2) Any person may inspect any public archives subject to—
- (a) the provisions of subsection (1); and
 - (b) any condition or restriction imposed by the Director or the person from whom they were acquired.

- (3) Subject to the provisions of subsections (1) and (2), the National Archives shall be open to the public for the inspection of public archives during such hours as may be fixed by the Director with the approval of the Minister.

Part V – Exportation and removal of archives and other documents

13. Restriction of exportation of or unauthorised removal of public archives and public records

- (1) No person shall export from Zambia any public archives except under and in accordance with the terms of a licence issued by the Director.
- (2) No person shall remove—
 - (a) any public archives from the National Archives without the written permission of the Director;
 - (b) any public records selected for, but not transferred to, the National Archives from its place of custody without the written permission of the Director or the person in whose custody the same is kept.
- (3) A licence issued or a permit granted under the provisions of this section shall specify each record to which the licence or permit relates and may contain such conditions as to the custody, use, preservation and return of the record as the Director or other person granting the same thinks fit.
- (4) Any person who contravenes the provisions of subsection (1) or (2) or fails to comply with the conditions of any licence issued or permit granted to him under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twelve thousand penalty units or to imprisonment for a period not exceeding six months, or to both.
- (5) Nothing in this section shall apply to the removal from its place of custody of a public record selected for, but not transferred to, the National Archives by any person in the service of the Government or otherwise employed in the office in which the same is kept in the course of his duties.

[As amended by Act [No. 13 of 1994](#)]

14. Declaration of historical records

- (1) If the Director is satisfied that any record which is in, and was made in Zambia, is of historical value to Zambia, he may, by notice published in the *Gazette* or by writing under his hand served on the person having the custody of such record, declare the record to be an historical record the export from Zambia of which is prohibited except under and in accordance with the terms of a licence issued by the Director.
- (2) A licence issued for the export of an historical record declared as such under this section shall contain a description of the record sufficient to identify it and may contain such conditions as to the custody, use, preservation and return of the record as the Director thinks fit.
- (3) Any person who—
 - (a) knowing any record to be declared an historical record under this section, exports or attempts to export the same from Zambia without the licence of the Director; or
 - (b) fails to comply with the conditions of any licence issued to him under this section;shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twelve thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

- (4) Any person aggrieved by the declaration of any record as an historical record under this section may appeal to the Minister and the decision of the Minister on any such appeal shall be final. Where the Minister allows an appeal under this section, the Director shall forthwith revoke the declaration.

[As amended by Act [No. 13 of 1994](#)]

Part VI – Validity, evidence and copyright

15. Legal validity of public records

When it is a requirement of the validity of any public record that it be kept in or produced from legal custody, the validity of such record shall not be affected by its transfer from the appropriate office to the National Archives.

16. Authentication of copies

A copy of or extract from any record in the National Archives purporting to be duly certified as true and authentic by the Director, by any officer of the National Archives authorised in that behalf by him, or by the custodian of the public archives in any place of deposit where such record is kept, and authenticated by having impressed thereon the official seal of the National Archives or of the place of deposit, shall be admissible in evidence if the original record would have been admissible in evidence in any proceedings.

17. Copyright

Where any work in which copyright subsists, or a reproduction of such work, is comprised in any public archives which are open for public inspection in accordance with the provisions of this Act, the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work by or under the direction of the Director:

Provided that, in its application to any archive obtained otherwise than by transfer to the National Archives in accordance with section nine, the foregoing provisions of this section shall have effect subject to any express terms or conditions under which the same was obtained.

18. Reproduction of public archives

- (1) Subject to the provisions of subsection (2), no person may publish or reproduce the whole or any part of the contents of any public archives or records which have been transferred to the National Archives except—
- (a) in the case of public archives mentioned in paragraph (a) of the definition of "public archives", with the written permission of the Director and in accordance with such conditions as the Director may impose;
 - (b) in the case of public archives mentioned in paragraph (b) of the definition of "public archives", with the written authority of the person from whom such archives were acquired.
- (2) The provisions of subsection (1) shall not apply in relation to judicial records.
- (3) Any person who contravenes the provisions of subsection (1) or fails to comply with any conditions therein referred to shall be guilty of an offence and shall be liable on conviction to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.
- (4) Nothing in this section shall be construed as affecting or extending the law relating to copyright.

[As amended by Act [No. 13 of 1994](#)]

Part VII – Miscellaneous

19. National Archives Advisory Council

- (1) There shall be established a Council to be called the National Archives Advisory Council, which shall consist of the Director as chairman and five other members to be appointed by the Minister.
- (2) A member of the National Archives Advisory Council shall hold office for such time as the Minister may direct and shall receive no remuneration for his services.
- (3) The functions of the National Archives Advisory Council shall be to advise the Minister on all matters relating to the retention or destruction of public records, transfer of public records to the National Archives, access by members of the public to the public archives and the services of the National Archives and on such other matters relating to the public archives and to historical records as the Minister may refer to the Council.
- (4) Three members of the National Archives Advisory Council shall form a quorum at any meeting of the Council.
- (5) The National Archives Advisory Council shall determine its own procedure.

20. Offences and penalties

Any person who contravenes any provision of this Act for which no special penalty is provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding three months.

[As amended by Act [No. 13 of 1994](#)]

21. Regulations

- (1) The Minister may, by statutory instrument, make regulations for any matter which may be prescribed in terms of this Act and generally for the better carrying out of the objects and purposes of this Act.
- (2) Without derogation from the generality of the provisions of subsection (1), the Minister may make regulations providing for—
 - (a) the admission of the public to the National Archives and the inspection by the public of the public archives;
 - (b) the transfer of any public records to the National Archives;
 - (c) responsibilities of public officers for the custody of public records;
 - (d) the conditions under which documents in the National Archives may be reproduced or published or extracts made therefrom;
 - (e) the fees to be paid for the use of the facilities of the National Archives and for any service provided by the Director; and
 - (f) the preservation and protection of public archives.