

THE UNITED REPUBLIC OF TANZANIA



No. 6 OF 1979

ASSENT,

Julius K. Nyerere
President

23rd MAY, 1979

An Act to amend the National Archives Act, 1965

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

Short title
and construction
cap 592

1. This Act may be cited as the National Archives (Amendment) Act 1979, and shall be read as one with the National Archives Act, 1965 (hereinafter referred to as "the principal Act).

2. Section 2 of the principal Act is amended-

Amendment
of section 2

(b) by inserting immediately after the definition "place of deposit", the following definition-

" "private records' means all records other than public records, acquired or created during or through the ordinary course of transactions of individuals or of organizations or firms other than those specified in the Second Schedule to this Act. and includes any records which are declared to be public records under section 4A";

(b) by deleting the definition "public records" and substituting for it the following-

" "public records" means the records described in the Second Schedule to this Act and those referred to in section 4A (5);".

3. Section 4 of the principal Act is amended-

Amendment
of section 4

(a) in subsection (2), by inserting a full stop immediately after the words "National Archives", and deleting the whole of the passage from the word "and" up to the full stop after the word "accordingly",

(b) by adding, immediately after subsection (2), the following new subsection-

"(3) Where the Minister declares any place to be a place of deposit pursuant to subsection (1), the authority responsible for the records in that place shall establish finding aids and submit copies of those aids to the National Archives and, in relation to the records concerned, the provisions of this Act shall have effect accordingly."

Addition of
new section

4. The Principal Act is amended by adding, immediately after section 4, the following new section-

"Minister may
acquire
Private
records

4A.-(1) Where it appears to the Minister that any private records, or any part of them, are of national importance, and that it is in the public interest that they be acquired, he may, after consultation with the owner of the private records and subject to the following provisions of this section, acquire those records, or any part of them, and declare them to be public records.

(2) The United Republic shall, after consultation with the Minister responsible for finance pay full and fair compensation In respect of the private records acquired after consultation with the owner of the private records acquired.

(3) When the amount of compensation payable to the owner of the private records acquired pursuant to this section has been determined, the Minister for the time being responsible for finance shall issue a certificate setting out the amount, and that amount shall constitute a charge on and be paid out of the Consolidated Fund.

(4) Notwithstanding subsection (3), the amount of compensation shall be payable in such manner and in such instalments, as the Minister for the time being responsible for finance, after consultation with the person entitled, shall determine

(5) Where any private records have been acquired pursuant to this section, the records acquired shall forthwith vest in the National Archives and, in relation to the records concerned, the provisions of this Act shall have effect accordingly."

Amendment
of section 9

5. Section 9 of the principal Act is amended-

(a) by deleting the whole of subsection (3) and substituting for it the following-

"(3) Public records selected for transfer to the National Archives shall be transferred accordingly not later than two years from the date of their selection:

Provided that the transfer of any public records to the National Archives may be withheld after the expiration of that period if the Minister responsible for the records certifies that the records are required for administrative purposes or for any other special reasons

- (b) by deleting the whole of subsection (4) and substituting for it the following-

"(4) The Director may, if it appears to him to be in the interests of the proper administration of the National Archives, direct that the transfer of any category of public records be suspended until arrangements for their reception have been completed and, upon such a direction being made, the creating or holding agent shall take all necessary measures to ensure the safety of those records during the period of suspension of their transfer."

- 6.** Section 10 of the principal Act is amended-

Amendment
of section 10

- (a) by renumbering the present provisions of that section as provisions, of subsection (1) of section 10; and
(b) by adding, immediately after subsection (1), the following new subsections-

"(2) No person shall destroy or dispose of any public records save after consulting and obtaining the written consent of the Director in that behalf, and, where the Director gives the consent subject to any conditions, after compliance with those conditions.

(3) Any person who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding ten months, or to both such fine and imprisonment."

- 7.** Section 12 of the principal Act is amended in subsection (1) by deleting the full stop at the end of that subsection and adding, after of section 12 the word "Director", a comma and the passage "with the approval of the Minister."

Amendment
section 12

- 8.** The principal Act is amended by adding, immediately after section 13, the following new section-

Addition of
new
section 13A

"Restoration
of archives
and
records
unlawfully
exported or
removed

13A. Where any public archives or any public records are exported or removed contrary to, the provisions of section 12 or 13 and any person is convicted of the offence, the trial court shall, upon convicting the accused person, order that the archives or, as the case may be, the records, be put at the disposal of the National Archives."

- 9.** Section 17 of the principal Act is repealed and replaced by the following-

Repeal and
replacement
of section 17

"Establishment and functions of National Archives and Records Management Advisory Council"

17.-(1) There is hereby established a body to be known as the National Archives and Records Management Advisory Council.

(2) The provisions of the First Schedule to this Act shall have effect as to the composition, proceedings, we tenure of office of the members of, and otherwise in relation to, the Council.

(3) The functions of the Council shall be to advise generally on the management of archives and records and, in particular, to give advise to the Minister on:

- (a) the policy and the procedure relating to the acquisition of archives and records from institutions other than those specified in the Second Schedule to this Act;
- (b) the management and the operations of the National Archives;
- (c) the formulation of a policy Mating to the prohibition or restriction of access by the public to public archives;
- (d) the declaration of places of deposit for the preservation of public or private records;
- (e) the classification and de-classification of records;
- (f) the presentation and recommendation of Archives and Records Disposal and Preservation Schedules."

Deletion and replacement Of Schedule

10. The Schedule to the principal Act is deleted and replaced by the following schedule

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"FIRST SCHEDULE--(Section 17 (2))
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THE COUNCIL

Interpretation

1. in this Schedule-
"the appointing authority" means, in the case of the Chairman, the President, and m the case of any other member, the Minister;
"Council" means the National Archives and Records Management Advisory Council established by section 17;
"member" means a member of the Council and includes the Chairman and the Vice-Chairman.

Composition

2.-(1) The Council shall consist of-
(a) a Chairman who shall be appointed by the President;
(b) the Director;
(c) the Director of the National Archives in Zanzibar;
(d) not less than seven nor more than twelve other members who shall be appointed by the Minister.

(2) In making appointments of members under paragraph 2 (1) (d) the Minister shall ensure that he appoints persons who have experience and ability in records administration or archival research or who, in his view have the deliberations of the council and to assist the Council in the performance of its functions.

3.-(1) Subject to sub-paragraph (2), every member shall, unless his appointment is sooner terminated or he otherwise ceases to be a member, hold office for a term of three years from the date of his appointment and shall be eligible for re-appointment. Tenure of Office

(2) In the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his wasing to hold that office.

(3) Any member, other than a member referred to in sub-paragraph (2), may at any time resign by giving notice in writing to the appointing authority, and 710111 (late of the receipt of the notice by the appointing authority. he shall cease to be a member.

4. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his Place and the person so appointed shall hold office for the remainder of the term of office of his predecessor. Casual vacancies

5.-(1) The Council shall ordinarily meet for the transaction of its business at the times and at the places determined by it, but shall meet at least once every six months. Meetings of Council

(2) The Chairman, or in his absence the Vice Chairman may at any time call a special meeting of the Council, and shall call a special meeting upon a written request by a majority of the members in office

(3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Council. In the absence of both the Chairman and the Vice-Chairman the members present shall appoint one of their number to preside over the meeting.

(4) The Chairman, or in his absence the Vice-Chairman, may invite any person who is not a member to participate in the deliberations at any meeting of the Council, but any person so invited shall not be entitled to vote.

6. The quorum at any meeting of the Council shall be half of the members in office. Quorum

7.-(1) Questions proposed at a meeting of the Council shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote in addition to his deliberative vote. Decision, of Council

(2) Notwithstanding the provisions of sub-paragraph (1), a decision may be made by the Council without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members.

8.-(1) The Council shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, mid the minutes of each meeting of the Council shall be read and confirmed, or amended and confirmed, at the next meeting of the Council and signed by the person presiding at that meeting. Minutes of meetings

(2) Any minutes purporting to be signed by the person at the Council shall. in the absence of proof of error, be deemed to be a record of the meeting whose minutes they purport to be.

9. The validity of any act or proceeding of the council shall not be effected by any vacancy among its members or by defect in the appointment of any of them. vacancies etc., not to invalidate proceedings

10. Subject to the provisions of this Schedule, the Council way regulate its own proceedings. Council may regulate its own proceedings

SECOND SCHEDULE--(Section 2)

Save for the records of the Public Trustee or of the Administrator-General which relate to individual trusts or estates, the following are public records:

PART A

1. The records of any Ministry or Government department and of any commission, office or other body or establishment under the Government.

2. The records of the High Court and of any other court or tribunal.
3. The records of Parliament and of the Electoral Commission.
4. *no* records of any local government authority, or other authority established for local government purposes.

PART B

1. The records of any public corporation established under the Public Corporations Act, 1969.
2. The records of any Parastatal Organization established by or under any written law other than the Companies Ordinance.
3. The records of any company or other body corporate established under the Companies Ordinance, fifty-one per cent of whose issued share capital is owned by the Government, a parastatal organization or by a public corporation.

Passed in the National Assembly on the twenty-fourth day of April, 1979.



Clerk of the National Assembly