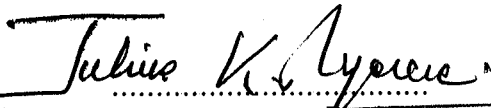


THE UNITED REPUBLIC OF TANZANIA



No. 33 OF 1965

I ASSENT,


President

8TH JULY, 1965

An Act to establish the National Archives of Tanzania, to provide for the preservation of public records and for connected purposes

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1.—(1) This Act may be cited as the National Archives Act, 1965, Short title and, subject to the provisions of subsection (2) of this section, shall and commence come into operation on such date as the Minister shall, by notice in the Gazette, appoint.

(2) Save to the extent that the Minister may authorize any person to have access to any public archives or category thereof, section 11 shall not come into operation in respect of the National Archives or any place of deposit until the Minister has given notice in the *Gazette* that the National Archives or such place of deposit is open to the public.

2.—(1) Subject to subsection (2) of section 4 and unless the context otherwise requires, in this Act—

“the Director” means the Director of the National Archives;

“the Minister” means the Minister for the time being responsible for archives;

“the National Archives” means the public department constituted by section 3 and, save in sections 1 to 8 (inclusive), includes a place of deposit;

“place of deposit” means a place of deposit appointed under section 4;

“public archives” mean—

(a) public records transferred to the National Archives or a place of deposit under section 9;

(b) any other document, book, record or other material acquired for the National Archives;

“public records” mean the records described in the Schedule to this Act;

" records" include not only written records, but records conveying information by any means whatever; and references to records selected for preservation include records directed, in accordance with this Act, to be preserved.

(2) When records created at different dates are for administrative purposes kept together in one file or other assembly, all the records; in that file or other assembly shall be treated for the purposes of this Act as having been created when the latest of those records was created.

(3) The Minister may, by order published in the *Gazette*, add to Part II of the Schedule to this Act any corporation or other body established by written law.

The national archives and places of deposit

The National Archives of Tanzania

3. There shall be constituted and maintained a public department to be called the National Archives of Tanzania wherein shall be preserved the public archives other than those which, in accordance with this Act, are to be kept in some other place of deposit.

Other places of deposit

4.-(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 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, public 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 public records, the provisions of this Act shall have effect accordingly.

The Director and staff of the National Archives

5.-(1) There shall be a Director of the National Archives and the office of the Director and of the other staff of the National Archives shall be offices in the service of the United Republic.

(2) Subject to the directions of the Minister, the Director shall have the charge of the National Archives and of the public archives therein and, in addition to the specific functions conferred or imposed on the Director by this Act, it shall be the duty of the Director to take all practicable steps for the proper management and control of the National Archives and for the preservation of the public 'archives therein.

(3) Subject to the directions and, in respect of the matters provided for in paragraph (g), to the approval of the Minister, the Director shall have power to do all such things as appear to him necessary or expedient for the discharge of such duty and for maintaining the utility of the National Archives and may, in particular-

- (a) compile, make available and publish indices and guides to, and calendars and texts of, public archives in the National Archives;
- (b) prepare publications concerning the activities of and the facilities provided by the National Archives;

- (c) regulate the conditions under which members of the public may inspect public archives in, or use the facilities of, the National Archives;
- (d) 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;
- (e) make arrangements for the separate housing of films and other records which have to be kept under special conditions;
- (f) acquire, or accept gifts and loans of, any document, book or other material which in his opinion is or should be added to the public archives;
- (g) lend public archives in the National Archives for display at commemorative exhibitions or for other special purposes.

6.-(1) Where the Minister declares any place of deposit under section 4, 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.

Custodians
of places
of deposit
and powers
of the
Director in
respect of
such places

(2) A person appointed custodian of the public archives in any place of deposit shall, subject to the directions 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 the 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.-(1) There shall be an official seal of the National Archives of a design approved by the Minister.

Seals

(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 provide 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,

Secrecy

8. Where there are transferred to the National Archives or any place of deposit any public records containing information obtained from members of the public 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 provision 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.

Selection of and access to public archives

Selection
and
preservation
of public
records
and transfer
to the
National
Archives

9.-(1) The Director and any officer of the National Archives authorized by him shall have power to examine public records which have not been transferred to the National Archives and to select those which ought to be preserved and transferred to the National Archives:

Provided that nothing in this subsection shall empower the Director or any such officer to examine any public record access to which is restricted by written law or otherwise to a person or category of persons which does not include the Director or such officer.

(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 to the Director and any such officer appropriate facilities for such examination and selection; and

(b) to provide for the assemblage and safekeeping, 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 any public records, whether or not examined by the Director or any such officer, which the Director has directed shall be preserved, pending their transfer to the National Archives.

(3) Public records selected for transfer to the National Archives shall be transferred thereto not later than twenty years from the date of their creation:

Provided that the transfer of any public records to the National Archives may be withheld after the expiration of the said period 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 reasons and, where that person is not a Minister, the Minister responsible for archives has been informed thereof, has given his approval for withholding such records, and has prescribed some alternative manner for preserving them.

(4) The Director may, if it appears to him in the interests of the proper administration of the National Archives, direct that the transfer of any category of public records shall be suspended until arrangements for their reception have been completed.

(5) Public archives may be temporarily returned to their office of origin at the request of the person by whom or the office from which they were transferred.

10. If as respects any public archives in the National Archives or public records selected, 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, authorize the destruction of such archives or records or, with such approval, their disposal in any other way:

Destruction
of archives
and public
is record

Provided that nothing in this section shall authorize, or empower the Director to authorize, the destruction or disposal of any public archives obtained otherwise than by transfer under section 9 contrary to the 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.-(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 thirty 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.

Access to
public
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 that the said public archives or category are of a kind which ought not be made available for public inspection, order that the said public archives or category thereof shall not be made available for public inspection or shall not be available to public inspection until the expiration of such further period as may be specified in that or any subsequent order.

(3) The Minister may, in like manner and acting on a certificate from such person aforesaid, order that any public archives or category thereof be made available for public inspection notwithstanding that such public archives have not been in existence for at least thirty years.

(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 authorized by him to have access to any public archives or category thereof.

Exportation and removal of archives and other documents

Restriction
of
exportation
of or
unauthorized
removal of
public archives
or public
records

12. (1) No person shall export from Tanzania 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 record 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 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 ten, thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(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 United Republic or otherwise employed in the office in which the same is kept in the course of his duties.

Declaration
of
historical
records

13.-(1) If the Director is satisfied that any record which is in, and was made in, Tanzania is of historical value to Tanzania, 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 Tanzania, 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 Tanzania 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 ten thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(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.

Validity, evidence and copyright

14. 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 document shall not be affected by its transfer from the appropriate public office to the National Archives.

Legal validity
of public
records

15. 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 authorized 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 the proceedings.

Authentica-
tion of
copies

16. Where any work in which copyright subsists, or a reproduction of such work, is comprised in any public archives which are open to public inspection in accordance with 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:

Copyright

Provided that, in its application to any archive obtained otherwise than by transfer to the National Archives in accordance with section 9, the foregoing provisions of the section shall have effect subject to any express terms or conditions under which the same was obtained.

Miscellaneous

17.-(1) The Minister shall establish a Council to be called the National Archives Advisory Council which shall consist of the Director and such number of other members (one of whom shall be appointed chairman) not being less than five or more than seven as the Minister may, by notice in the *Gazette*, appoint.

National
Archives
Advisory
Council

(2) A member of the Council other than the Director shall hold office for two years unless his appointment shall have been previously revoked, and shall be eligible for re-appointment.

(3) The functions of the National Archives Advisory Council shall be to advise the Minister on all matters relating to access by members of the public to 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.

Regulations

18. 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) the responsibilities of public officers for the custody of public records;
- (d) the examination, disposal or destruction of public archives and public records;
- (e) the conditions under which documents in the National Archives may be reproduced or published or extracts made therefrom;
- (f) the fees to be paid for the use of the facilities of the National Archives and for any service provided by the Director; and
- (g) generally for the better carrying out of the objects and purposes of this Act.

Amendment
of Cap. 9

19.-(1) Section 2 of the Records (Disposal) Ordinance is hereby amended by deleting the words and commas "The High Court may, with the approval of the Governor," and by substituting therefor the words and commas "The Chief Justice may, after consultation with the Director of the National Archives,"

(2) Nothing in subsection (1) of this section shall affect the operation of any rules made under the Records (Disposal) Ordinance and in force immediately before the commencement of this Act, but such rules shall be deemed to have been made under the Ordinance as amended by this Act.

(3) Save as provided in this section, nothing in this Act shall affect the operation of the Records (Disposal) Ordinance.

Zanzibar

20. This Act shall extend to Zanzibar in relation to any records of the Parliament, Government or High Court of the United Republic as well as to Tanganyika.

THE SCHEDULE**PART I**

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. The records of any local government authority, or other authority established for local government purposes:

Provided that nothing in this Part shall include the records of the, Public Trustee or the Administrator-General which relate to individual trusts or estates.

PART II

The records of-

- (1) any Board established under the Agricultural Products (Control and Marketing) Act, 1962;
- (2) any Commission established under the Range Development and Management Act, 1964;
- (3) any Regional Committee established under the Unified Teaching Service Act, 1962.
- (4) the Lint and Seed Marketing Board;
- (5) the National Development Corporation;
- (6) the Pyrethrum Board;
- (7) the Rural Settlement Commission;
- (8) the Tanganyika Library Services Board;
- (9) the Tanganyika Coffee Board;
- (10) the Tanganyika Higher Education Trust Fund;
- (11) the Tea Board;
- (12) the Trustees of the Tanganyika National Parks;
- (13) the Waqf Commission;
- (14) any waterworks authority established under the Waterworks Ordinance.

Passed in the National Assembly on the eleventh day of June, 1965.


Clerk of the National Assembly