

CHAPTER 19B**ARCHIVES**

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SCHEDULE

CHAPTER 19B

ARCHIVES

An Act to provide for the custody and preservation of public archives, public records and other documents. 1989-21.

15th December, 2001 Commence-
ment.
2001/122.

1. This Act may be cited as the *Archives Act*. Short title.

2. In this Act Interpretation.

"Chief Archivist" means the person holding or acting in the office of Chief Archivist established under the *Civil Establishment Act*; Cap. 21.

"Committee" means the Archives Advisory Committee established under section 3;

"manuscript" means any handwritten document made of paper, copper, silver, gold or other material except granite;

"printed matter" means any book, magazine, newspaper, or any other document containing information printed by any mechanical or other process;

"printed archives" means all public records and any other manuscript, document or printed matter more than 30 years old kept or deposited at the Archives Department for permanent preservation;

"public office"

(a) means

- (i) the office of the Governor-General;
- (ii) the office of the Cabinet;

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- (iii) the office of the Houses of Parliament;
- (iv) the office of any Minister of Government;
- (v) the office of any Government Department;
- (vi) the office of any court of law;
- (vii) the office of any body constituted or incorporated by any enactment; and

(b) includes an office of

- (i) a Committee of Inquiry appointed by a Minister; or
- (ii) a Commission of Inquiry under the *Commissions of Inquiry Act*;

Cap. 112.

"public records" or "record"

(a) means any original or copy of any manuscript, paper, letter, register, report, book, magazine, map, chart, plan, drawing, picture, photograph or machine-readable record or part thereof produced on paper or any other material except granite, and officially received or produced or prepared in any public office in the course of its official functions; and

(b) includes

- (i) any cinematograph film, recording, tape, disc or machine-readable record received in any public office;
- (ii) any judicial records;
- (iii) any office papers of a Minister of Government; and
- (iv) other things that may be prescribed;

"responsible officer", with reference to any public office, means the head of that office or the officer for the time being discharging the duties and functions of the head of that office.

3. (1) For the purposes of this Act there is established a body to be known as the "Archives Advisory Committee".

Establishment of Archives Advisory Committee. Schedule.

(2) The provisions of the *Schedule* have effect with respect to the constitution of the Committee and otherwise in relation thereto.

4. The Committee shall advise the Minister on matters referred to the Committee by the Minister relating to

Functions of Committee.

- (a) the location, preservation and use of public archives;
- (b) the custody and transfer of public records;

- (c) the conditions and restrictions on which public records available for research or any of them may be inspected and published;
- (d) inspection and preservation of documents and manuscripts of historical or cultural or literary value in private possession;
- (e) inspection by members of the public of public archives and public records; and
- (f) editing and publishing of public archives and private manuscripts.

5. (1) The Chief Archivist shall have charge of the Archives Department and of the public archives and public records deposited therein or transferred thereto and in addition to the specific functions conferred or imposed on him by this Act, he shall take all such measures as are necessary for the conservation of public archives, public records and private manuscripts.

Power and
duties of
the Chief
Archivist.

(2) Subject to this Act and the regulations, the Chief Archivist, or any other officer of the Archives Department authorised by the Chief Archivist may do all such things as appear to him to be necessary or expedient for the purpose of the efficient administration of this Act and may, in particular

- (a) make available and publish lists, indices, guides, inventories, calendars, texts, translations and such other things as may be necessary as aids to the use of the public archives;
- (b) produce, edit, print or make any other use of any public archives in his custody, subject to any terms and conditions on which the public archives were transferred to or acquired by the Archives Department;
- (c) provide for the restoration and conservation of public archives and public records in a suitable manner and make photographic reproductions or duplicate copies of any public archives where necessary;
- (d) produce or cause to be produced for inspection by any individual any public archive or public record open to public inspection;
- (e) acquire by purchase, donation, bequest, contract or otherwise or take on loan, any record, manuscript or

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document on any material which, in his opinion shall be deposited in the Archives Department for permanent preservation;

- (f) examine any record, manuscript or document containing references to or which had its origin in but lies outside Barbados, with a view to securing, either on loan or by purchase, the original or any copy thereof;
- (g) examine any collection of records or printed material in private possession for purposes of listing or recording and render such technical aid or assistance as may be necessary for the conservation and preservation of such records or printed material;
- (h) hold public exhibitions or expositions of any class or description of public archives, private documents, manuscripts or printed material deposited in the Archives Department, either in the premises of the Archives Department, or elsewhere;
- (i) with the consent of the public office which produced the record, or the owner, if known, who transferred the record make a microfilm of any record.

(3) The Chief Archivist shall, in addition to the functions imposed upon him by this Act, make recommendations to the Minister on the following matters:

- (a) the retention or destruction of public records;
- (b) the transfer of public records to the Archives Department; and
- (c) the classification of public records for any of the purposes in paragraphs (a) and (b).

(4) The Chief Archivist shall signify to the Minister those public records which, in his opinion, are of enduring or historical value.

(5) The Minister may give directions for the purpose of giving effect, whether with or without modification, to the recommendations made by the Chief Archivist.

(6) The Chief Archivist may in writing delegate any of his powers and functions under this Act to any officer of the Archives Department.

6. (1) The Chief Archivist shall have access to any place of deposit of public records and shall have the power to examine such records with a view to listing them or collecting information thereof or to taking such steps as are necessary for their transfer to the Archives Department for preservation.

Selection and transfer of public records to the Archives Department.

(2) It shall be the duty of the responsible officer of any public office or any other person for the time being having custody of any public records

- (a) to afford the Chief Archivist or any other officer authorised by him in writing all facilities for the examination and selection of such public records for permanent preservation and for the transfer of such public records to the Archives Department;
- (b) to keep in safe custody in such public office any class or description of public records selected by the Chief Archivist or by such other officer pending the transfer of such records to the Archives Department;
- (c) to perform such duties in connection with the selection and listing of such public records in his custody for transfer to the Archives Department as may be required by the Chief Archivist;
- (d) to transfer to the Archives Department any public records, whether 30 years old or not, that are selected by the Chief Archivist and are not required by the public office;
- (e) to furnish the Chief Archivist with 2 copies of all published reports relating to his department or office which are available to the public, within a period of 3 months after such reports have been published.

(3) Notwithstanding paragraph (d) of sub-section (2), the transfer of any public records less than 30 years old to the Archives Department may be temporarily deferred and the records retained in such public office for administrative or other purposes for such period as may be agreed between the responsible officer and Chief Archivist.

(4) Where the responsible officer considers any public record that is more than 30 years old to be of a confidential or secret nature, or that it contains any other information that should not be

divulged to the public, he may, after consultation with the Chief Archivist, decide

- (a) whether the public record should remain closed or should not be transferred; or
- (b) whether conditions should be attached to its transfer to the Archives Department and, if so, what the conditions should be.

(5) The Chief Archivist or any other person, if dissatisfied with the decision of the responsible officer, may refer the matter to the Minister who shall then decide

- (a) whether the public record referred to in subsection (4) is of a confidential or secret nature and whether it should remain closed; or
- (b) whether conditions should be attached to its transfer to the Archives Department or to its inspection and if so, what the conditions should be.

Procedure relating to documents where public office is to be closed down.

7. Where any public office is due to be closed down or wound up the responsible officer of such public office shall transmit to the Chief Archivist a complete list of all public records in that office and shall make arrangements to deposit in the Archives Department such records as the Archivist may select or require for permanent preservation in the Archives Department.

Preservation and inspection of public records.

8. (1) Public records less than 30 years old shall be kept separately from the public archives in the Archives Department.

(2) Public records less than 30 years old in the Archives Department shall be regarded as confidential and shall not be available to any person for research unless

- (a) the material contained therein has previously been published for general information; or
- (b) the Minister has given permission to examine the record.

(3) where any public record which is less than 30 years old has been deposited in the Archives Department such record may be re-transferred to the public office which sent it to the Archives Department if it is required for use in that office.

9. It shall be the duty of the Chairman of any Commission or Committee of Inquiry to deposit all records relating to the Commission or Committee, as the case may be, at the Archives Department within 3 months after the rendering of the final report of that Commission or Committee.

Record of Commissions to be transmitted to the Chief Archivist.

10. (1) The chief executive officer of any private institution or any person in possession of any manuscript or document of historical, cultural or literary value, shall notify the Chief Archivist of the existence of the document or manuscript.

Documents and manuscripts in private possession.

(2) The person, or executive officer referred to in subsection (1) shall afford the Chief Archivist all facilities to inspect the manuscript or document.

(3) The person or the executive officer referred to in subsection (1) may, on such terms and conditions as may be agreed between himself and the Chief Archivist

- (a) deposit the manuscript or documents mentioned in that subsection with the Archives Department;
- (b) make the manuscript or document available for inspection by the public;
- (c) permit the Chief Archivist to make photocopies of the manuscript or document; and
- (d) make the manuscript or document or extracts of copies thereof available for publication or for any other purpose.

(4) For the purposes of this Act, the Chief Archivist may declare any manuscript or document referred to in this section to be of historical, cultural or literary value and upon such declaration, shall enter the particulars of the same in a register kept by him for the purpose.

(5) Any person who does not agree with the declaration of the Chief Archivist may appeal to the Minister whose decision shall be final.

11. (1) No person shall except on the authority of a licence issued by the Minister export, take, send or cause to be exported, taken or sent out of Barbados any record, document or manuscript or any other printed matter being of historical, cultural or literary value.

Prohibition of exports of certain documents and manuscripts.

(2) The Minister may in his discretion refuse to issue a licence if he considers that the record, document or manuscript is

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by the authority of the Government of Barbados

of such historical, cultural or literary value that the export, sending or taking of that record, document or manuscript out of Barbados will not be in the national interest.

(3) A licence issued under subsection (1) may contain such terms and conditions as the Minister determines.

Destruction
of public
records.

12. No public records shall be destroyed except with the written consent of the Chief Archivist.

Authentica-
tion of
copies and
extracts.

13. A copy of or an extract from any public archive, public record or any private document or manuscript deposited in the Archives Department purporting to be duly certified as true and authenticated by the Chief Archivist or any other officer authorised by him in writing for the purpose, is admissible in evidence in any proceedings in any court in like manner and to the like extent as the original document or manuscript would have been admissible.

Regulations.

14. (1) The Minister may make regulations

- (a) regulating the selection of public records, private documents and manuscripts for permanent preservation, their transfer to and deposit in the Archives Department and the measures to be taken for their effective preservation in the Archives Department.
- (b) respecting the temporary deposit of any specified class or description of public records at places other than the Archives Department pending their transfer to the Archives Department;
- (c) respecting the care and custody of public records in Government departments and other institutions;
- (d) respecting the public access to the public archives and the terms and conditions including the charging of fees subject to which public archives of any specified class or description of public archives are open to inspection;
- (e) respecting the prohibition or restriction of the disclosure of information obtained by the public from public archives;
- (f) respecting the maintenance of secrecy by officers of the Archives Department in respect of which secrecy is required to be maintained by or under any written law;

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- (g) respecting the purchase from private individuals or organisations of manuscripts and documents and other printed matter of historical, cultural or literary value for permanent preservation in the Archives Department;
 - (h) respecting the holding of exhibitions and expositions of public archives; and
 - (i) prescribing anything that under this Act is authorised to be prescribed.

(2) Regulations made under subsection (1) are subject to negative resolution.

15. Any person who knowingly

- (a) defaces, marks, mutilates or damages any record, manuscript or document deposited in the Archives Department; or
- (b) destroys any public record otherwise than in accordance with this Act; or
- (c) contravenes this Act or the regulations,

Penalties.

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or imprisonment for 12 months or to both.

16. When a public record or document required to be maintained under any enactment other than this Act is transferred to or deposited in the Archives Department for permanent preservation under this Act, the public record or document shall be deemed to be maintained in the Archives Department under the other enactment, and accordingly the provisions of that enactment shall apply to and in relation to the record or document.

Records etc. maintained under another enactment but transferred to the Archives Department.

SCHEDULE

(Section 3)

- Constitution of Committee. 1. (1) The Archives Advisory Committee shall comprise the following:
- (a) the Solicitor-General or his nominee;
 - (b) a member of the academic community;
 - (c) a public officer other than the Solicitor-General;
 - (d) a member of the public with a cultural and historic interest in records; and
 - (e) the Chief Archivist, *ex officio*.
- (2) The Minister shall appoint a Chairman from among the members.
- Tenure. 2. (1) A member of the Committee shall be appointed for a period of 3 years and is eligible for re-appointment.
- (2) The Minister may at any time revoke the appointment of any member of the Committee.
- Resignation. 3. Any member of the Committee may at any time resign his office by instrument in writing addressed to the Minister and transmitted to him through the Chairman, and from the date of the receipt by the Minister of the instrument the member ceases to be a member of the Committee.
- Publication of membership. 4. The Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- Procedure and meetings. 5. (1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee determines, but the Committee shall meet not less than twice a year.
- (2) The Chairman may at any time call a special meeting of the Committee, and shall call a special meeting to be held within 7 days of a written request for the purpose addressed to him by any 2 members of the Committee.

(3) The Chairman shall preside at all meetings of the Committee at which he is present, and in the case of his absence or inability to act at any meeting the members present at the meeting constituting a quorum shall elect one of the members to preside at that meeting.

(4) At any meeting at which the voting is equal the Chairman or the person presiding has a second or casting vote.

(5) The quorum of the Committee is a majority of the total membership thereof.

(6) Subject to this Schedule the Committee may regulate its own proceedings.

(7) The validity of any proceedings of the Committee is not affected by any vacancy in the membership thereof or by any defect in the appointment of a member thereof.

6. There may be paid to the Chairman and other members of the Committee and to members of any sub-committee appointed under paragraph 7 such remuneration and such allowances as the Minister may determine. Remuneration of members.

7. (1) The Committee may appoint sub-committees for any purpose that in the opinion of the Committee would be better regulated and managed by a sub-committee. Appointment of sub-committee.

(2) The number of members of a sub-committee appointed under subparagraph (1), their functions and terms of appointment, the quorum of the sub-committee and the area, if any, within which the sub-committee is to exercise authority shall be determined by the Committee.

(3) A sub-committee appointed pursuant to this paragraph may include persons who are not members of the Committee.

(4) The validity of the proceedings of a sub-committee appointed pursuant to this paragraph shall not be affected by any vacancy in the membership thereof or by any defect in the appointment of a member thereof.