

THE NATIONAL RECORDS AND ARCHIVES ACT, 2001.

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An Act to provide for the rationalised management of all Government and other public records and archives under one single authority, for the preservation, utilisation and disposal of such records and archives, for the repeal of the Records (Disposal) Act, and for other connected matters.

DATE OF ASSENT: 7th June, 2001

Date of commencement: 15th June, 2001.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title

This Act may be cited as the National Records and Archives Act, 2001.

2. Interpretation

In this Act, unless the context otherwise requires—

“Advisory Committee” means the National Records and Archives Agency Advisory Committee established by section 6;

“Agency” means the National Records and Archives Agency established by section 4;

“archival repository” means a building or part of a building in which archives are preserved and made available for consultation;

“archives” means records of enduring value selected for permanent preservation;

“competent authority” means for the purpose of section 17 (2) a person authorised to downgrade or declassify classified records the sensitivity of which has reduced or expired;

“currency point” has the meaning assigned to it in the First Schedule to this Act;

“current records” means records regularly used for the conduct of the current business of an institution or individual;

“Director” means the Director of the National Records and Archives Agency;

“heads of organs of State” means the Ministers or other persons responsible for directing organs of State;

“local governments” means local governments established under subsections (2) to (5) of section 4 of the Local Governments Act;

“Minister” means the Minister responsible for the administration of this Act;

“National Archives” means the principal archival repository in which the public archives of Uganda are preserved and made available for consultation;

“organ of State” means any institution, body or office established by or under the Constitution;

“place of deposit” means a place appointed as such under section 16 of this Act;

“private records and archives” means records and archives other than public records and archives as defined in this Act;

“public archives” means public records of enduring value selected for permanent preservation;

“public records” means records of an official nature belonging to the Republic of Uganda—

(i) created, received and maintained in any past, present or future organ of State;

(ii) created, received and maintained in any past, present or future public corporation or para-statal organisation;

(iii) created, received and maintained in any past, present or future local government;

(iv) in the custody of the Government Archivist at the time of coming into operation of this Act;

(v) declared to be public records by the Minister by regulations under section 31 of this Act;

“records” means recorded information regardless of form or medium created, received and maintained by any institution or individual under its legal obligations or in the transaction of its business and providing evidence of the performance of those obligations or that business;

“records centre” means a building or part of a building designated for the storage and provision of official access to semi-current records pending their eventual disposal;

“registry” means the place where current records are managed and maintained;

“retention and disposal schedule” means a document describing the recurring records of an institution or an administrative unit of that institution, specifying which records should be preserved permanently as having enduring value as archives and authorising on a continuing basis and after the lapse of prescribed retention periods or the occurrence of specified actions or events, the disposal by destruction or other means of the remaining records;

“semi-current records” means records required only infrequently for the conduct of current business and for the purposes of this Act, files and other assemblies of records on which no action has been recorded for five years shall be regarded as semi-current records.

3. Reckoning of time

(1) Any period of time specified by this Act shall run from the first day of January in the next year after that in which the records were created.

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

PART II—ESTABLISHMENT AND FUNCTIONS OF A NATIONAL RECORDS AND ARCHIVES AGENCY.

4. Establishment of a National Records and Archives Agency

(1) There is established a National Records and Archives Agency in this Act referred to as the “Agency”.

(2) The Agency shall be managed by a Director of Records and Archives in this Act referred to as “the Director”.

(3) The Director and the other staff of the Agency shall be officers in the public service of the Republic of Uganda and shall be appointed by the appropriate appointing authorities under the Constitution.

(4) The Director and any persons acting on his or her behalf or under his or her direction who require to have access to or custody of public records which are classified under the Official Secrets Act, shall satisfy any security requirements applicable to and take any oath of secrecy or official oath required to be taken by persons who normally have access to such public records.

(5) The Agency shall have an official seal which shall be judicially noticed.

5. Functions of the National Records and Archives Agency

The functions of the Agency are—

(a) to ensure that organs of State follow good practices in managing public records containing information in all media or formats, including those in electronic form;

(b) to establish records centres for the maintenance and provision of official access to semi-current records, one of which records centres shall meet minimum standards for housing classified documents up to and including secret level;

- (c) to establish and implement procedures for the timely disposal of public records of no continuing value and for the transfer of public archives for preservation in the National Archives, in any other archival repository under the control of the Director or in a place of deposit established under section 16 of this Act;
- (d) to preserve and make available for consultation, public archives selected for preservation in the National Archives or in any other archival repository under the control of the Director.

6. National Records and Archives Agency Advisory Committee

(1) There shall be a National Records and Archives Agency Advisory Committee in this Act referred to as the Advisory Committee.

(2) The members of the Advisory Committee shall be—

- (a) a Chairperson appointed by the Minister;
- (b) the Director;
- (c) a Senior Finance Officer representing the Ministry responsible for finance;
- (d) an officer not below the rank of Senior State Attorney representing the Ministry responsible for justice;
- (e) a Senior officer of the Ministry responsible for local government;
- (f) four other members appointed by the Minister who have experience and ability in records management or archival research or such other experience or qualifications that would enable them to make a useful contribution to the work of the Advisory Committee.

(3) The Chairperson and the members referred to in paragraph (f) of subsection (2) shall serve for a term of three years and shall be eligible for re-appointment for one further term.

(4) A person who has served for two terms as an appointed member shall not be precluded from being appointed as Chairperson.

(5) The Advisory Committee shall be responsible for—

- (a) advising the Minister on matters relating to the appraisal and disposal, information exchange, information export, deferment of transfer of information, extended closures of records and management of public records and archives generally;
- (b) supporting the Director;
- (c) any other matters specifically assigned to it by this Act or as the Minister may direct.

(6) The Second Schedule to this Act shall have effect in relation to meetings of the Advisory Committee.

(7) The Minister, in consultation with the Minister responsible for finance, may by regulation determine the allowances to be paid to the members of the Advisory Committee.

(8) The secretariat of the Advisory Committee shall be provided by the Agency.

PART III—RESPONSIBILITIES OF THE CREATORS OF PUBLIC RECORDS FOR THEIR PROPER MANAGEMENT.

7. Current records

Heads of organs of State shall be responsible for creating and maintaining adequate documentation of the functions and activities of their respective institutions through the establishment of good records keeping practices, including—

- (a) the nomination of a senior officer in each organ of State to superintend the action taken there in respect of this Act;
- (b) the creation and management of current records within appropriate registry systems;
- (c) the implementation of retention and disposal schedules issued in accordance with section 11 (*d*) and (*e*) of this Act;
- (d) the transfer of semi-current records into the custody of the Director, except insofar as they may remain classified as secret or top secret on grounds of—
 - (i) national security;
 - (ii) maintenance of public order; or
 - (iii) safeguarding the revenue.

8. Semi-current records

Heads of organs of State shall be responsible for co-operation with the Director in the management of semi-current records and in particular for—

- (a) maintaining the integrity of all semi-current records returned temporarily under section 12(*b*) of this Act;
- (b) approving access, other than by authorised personnel of the Authority and of the organ of State which created them or its successor in function, or as provided for in section 16 (1) of this Act, to semi-current records in the custody of the Director;
- (c) maintaining semi-current records whose transfer has been deferred under section 7 (*d*) of this Act in conditions comparable to those provided by the Director in records centres under his or her control;

- (d) implementing retention and disposal schedules relating to semi-current records whose transfer has been deferred under section 7 (d) of this Act and transferring records of enduring value into the custody of the Director or to any other place of deposit appointed under section 16 of this Act, not later than twenty years from their creation, except insofar as further deferment of transfer for a specified period may have been approved by regulations made under section 31 of this Act.

9. Public corporations and parastatal organisations

In respect of public records created, received and maintained by public corporations and parastatal organisations the responsibilities set out in sections 7 and 8 of this Act shall be those of the Chairpersons of the Boards of those corporations or organisations.

10. Abolition or privatisation

Where any organ of State, public corporation or parastatal organisation is to be abolished or privatised, the head of that institution shall transmit to the Director a detailed list of all public records and archives in that institution, and shall transfer to a records centre or to an archival repository under the control of the Director those records that the Director may select for continuing retention or permanent preservation.

PART IV—RESPONSIBILITIES OF THE DIRECTOR FOR THE MANAGEMENT OF PUBLIC RECORDS AND ARCHIVES.

11. Current records

The Director shall be responsible for the co-ordination of records management work in organs of State, with powers of inspection, and in particular for—

- (a) providing professional assistance, advice and guidance on the establishment and management of records systems;
- (b) establishing and ensuring compliance with standards for the management of public records;
- (c) making arrangements for the necessary training of records staff in organs of State;
- (d) drawing up general retention and disposal schedules for approval and issue by the Minister on the advice of the Advisory Committee, which schedules shall be sufficient authority for taking the action specified at the due date;
- (e) agreeing with the heads of organs of State retention and disposal schedules relating to records specific to each such organ of State for approval and issue by the Minister, which schedules shall be sufficient authority for taking the action specified at the due date;

- (f) ensuring that the provisions of retention and disposal schedules are implemented;
- (g) authorising the disposal of public records other than as provided for by retention and disposal schedules.

12. Semi-current records

The Director shall accept custody of semi-current records which have been scheduled for further retention and shall in particular—

- (a) maintain such records within a records centre and provide in the centre—
 - (i) separate and secure storage accommodation for the maintenance of semi-current records which continue to be classified as confidential, secret or top secret;
 - (ii) facilities for the consultation of semi-current records by duly authorised officers of the organ of State which created them or its successor in function.
- (b) return semi-current records temporarily from his or her custody to the organ of State which created them or to its successor in function for the purposes of current administration;
- (c) implement retention and disposal schedules in respect of semi-current records in his or her custody;
- (d) appraise and dispose appropriately of semi-current records which are in his or her custody and are not covered by disposal schedules;
- (e) arrange the transfer of records of enduring value into his or her custody as archives or to such other place of deposit appointed under section 16 of this Act, not later than twenty years from their creation;
- (f) inspect and advise the Minister on the suitability of premises in which it is proposed that records whose transfer has been deferred under sections 7 (d) and 8 (d) above should be held.

13. Archives

(1) The Director shall be responsible for the preservation of all public archives other than any whose transfer have been deferred under section 8 (d) of this Act or which are held in a place of deposit appointed under section 16 of this Act, and shall in particular—

- (a) establish and take charge of the National Archives and any branch archival repositories;

- (b) provide in the National Archives and in any other archival repositories under his or her control suitable conditions for the preservation and consultation of their holdings;
- (c) arrange and describe those holdings and provide appropriate guides, lists, indexes and other finding aids to facilitate access to them;
- (d) ensure that reasonable facilities are available to the public for inspecting and obtaining copies of public archives in the National Archives or any other archival repository under his or her control, insofar as those archives are open to inspection under section 17 of this Act;
- (e) prescribe rules to be observed by those wishing to consult public archives in the National Archives or any other archival repository under his or her control;
- (f) ensure that reasonable facilities are available to duly authorised officers of the organ of State which created them or its successor in function for inspecting and obtaining copies of public archives in the National Archives or any other archival repository under his or her control;
- (g) return public archives in the National Archives or any other archival repository under his or her control temporarily from his or her custody to the organ of State which created them or to its successor in function for the purposes of current administration.

(2) The Director may do all such things as appear to him or her necessary or expedient for maintaining the utility of the National Archives and any other archival repository under his or her control, and may in particular—

- (a) prepare publications, and sell them and other publications or objects related to public archives;
- (b) arrange exhibitions and lend public archives for exhibitions elsewhere subject to conditions which he or she may specify; but loans outside Uganda may not be made except with the consent of the Minister on the advice of the Advisory Committee;
- (c) dispose of public archives in his or her custody if it seems to him or her that they are not of enduring value, subject to the agreement of the head of the organ of State in which they were created or its successor in function and of the Minister on the advice of the Advisory Committee;
- (d) enter into arrangements with other institutions for the joint management of conservation and restoration, reprographic or other technical facilities.

14. Private records

(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 or she may, after consultation with the owner of the private records and subject to the following provisions of this section acquire them or any part of them and declare them to be public records, and thereafter the provisions of this Act relating to public records shall apply to them.

(2) The Minister shall after consultation with the Minister responsible for finance, and in accordance with article 26 of the Constitution pay full and fair compensation in respect of the private records so acquired.

(3) The amount of compensation shall be payable in such manner and in instalments as shall be determined by the Minister responsible for finance after consultation with the person entitled to the compensation.

PART V—LOCAL GOVERNMENT RECORDS AND
ACCESS TO ARCHIVES.

15. Local governments records and archives

(1) Subject to the provisions of this section, the Chief Executive of each Local Government shall be responsible for the management of current records created, received and maintained by that local government in accordance with section 7 of this Act.

(2) Section 7 (*d*) shall not apply to the Chief Executive and instead the Chief Executive shall be responsible for establishing records centres and managing semi-current records in accordance with section 12 of this Act.

(3) For the purposes of this section—

(*a*) subsection 12 (*e*) shall be interpreted to mean that transfer shall be to an archival repository under the control of the Director or to a place of deposit appointed under section 16 of this Act; and

(*b*) subsection 12 (*f*) shall not apply in respect of records to which subsections (1) to (3) of this section apply.

(4) The Director shall, in consultation with the Ministry of Local Government, be responsible for co-ordinating the implementation of all the responsibilities in respect of records under subsections (1) (2) and (3) in accordance with section 11 of this Act and for inspecting and advising the Minister on the suitability of premises which are to be used by local governments for maintaining their semi-current records.

(5) The Director shall, in consultation with Chief Executives of local governments, establish branch repositories of the National Archives to serve groups of neighbouring local governments and to preserve and make available for public inspection, archives transferred by them under subsection (1) of this section.

(6) Subsection (4) of this section does not preclude the appointment under section 16 of this Act of other archival repositories as places of deposit for archives of local governments.

16. Other places of deposit for public archives

(1) Where it appears to the Director that a place other than the National Archives or another archival repository under his or her control—

(a) affords suitable facilities for the safekeeping and preservation of public archives and for their consultation by the public; and

(b) is adequately funded for those purposes;

he or she may appoint it as a place of deposit for specified public archives.

(2) The authority responsible for the public archives in a place of deposit shall prepare appropriate guides, lists, indexes and other finding aids to those archives and submit copies to the Director.

(3) If a place of deposit fails to maintain suitable facilities or to submit copies of its finding aids or ceases to be adequately funded, the Director may revoke its appointment and may direct the transfer to the National Archives or another archival repository under his or her control of those archives that he or she may select for permanent preservation.

17. Access to public archives

(1) Subject to any written law prohibiting or limiting the disclosure of information in any public record or archive, public archives in the National Archives, in any other archival repository under the control of the Director or in a place of deposit appointed under section 16 of this Act shall be available for public inspection after the expiration of a period of thirty years from their creation, calculated in accordance with section 3 (2) of this Act; except insofar as a longer or shorter period is prescribed by the Minister by regulations made under section 31 of this Act at the request of the Minister or other head of the organ of State which created the archives or its successor in function.

(2) At the expiration of the period of thirty years prescribed in subsection (1), any public records selected for permanent preservation as archives and which are still classified as restricted, confidential, secret or top secret, shall be examined by a competent authority to ascertain whether their continuing classification is necessary and, if it is not, they shall be de-classified and cease to be subject to the Official Secrets Act, and shall become open to public inspection under subsection (1) of this section.

(3) A period of closure beyond thirty years may be prescribed under subsection (1) of this section only when there is a continuing need, after the examination prescribed in subsection (2) of this section, to maintain the security classification of public records or archives or otherwise to restrict public access on grounds of—

(i) national security;

- (ii) maintenance of public order;
- (iii) safeguarding the revenue; or
- (iv) protection of the privacy of living individuals.

(4) Public records and archives to which members of the public had access before transfer into the custody of the Director or to a place of deposit appointed under section 16 of this Act shall continue to be open to public inspection irrespective of their age.

18. Copyright

(1) In making available for inspection or providing copies of public archives in his or her custody, the Director shall not be in breach of any private copyrights in any such public archive.

(2) The provision of copies of public archives by the Director does not involve the transfer of any copyrights in them to the recipients.

(3) The publication of facsimile copies, verbatim transcripts or literal translations of public archives in the custody of the Director in which copyright of the Government of Uganda subsists is prohibited except with the consent of the Director and subject to such conditions as he or she may require and to the payment of such fees as may be prescribed by regulations made under sections 25 and 31 of this Act.

19. Legal validity

(1) The legal validity of any public record shall not be affected by its removal under this Act to the custody of the Director or to a place of deposit appointed under section 16 of this Act.

(2) A copy of a public archive in the custody of the Director or of an extract from such an archive examined and certified as a true and authentic copy by an officer authorised by him or her and bearing the seal of the Agency shall be admissible as evidence in any proceedings without any further or other proof of it if the original archive would have been admissible as evidence in those proceedings.

20. Official publications

Each organ of State shall deposit in the National Archives a copy of every publication which it issues, whether for sale or otherwise.

21. Export of historical documents

(1) The export from Uganda of public records and archives and their photocopies is prohibited.

(2) The export of other documents which relate to Uganda and are of historical or cultural value is prohibited except in accordance with the terms of a licence to export, issued by the Minister.

(3) The Minister may, at his or her discretion, refuse to issue a licence under this section if he or she considers that a document is of such historical or cultural value that its export would not be in the public interest.

(4) A licence issued under subsection (1) of this section shall specify each document to which the licence relates and contain such conditions as the Minister may prescribe.

(5) For the purposes of this section, the Minister may authorise the Director to establish a register of private records and archives within Uganda.

22. Penalty for removal, destruction or mutilation of public records and archives

(1) Any person who, without proper authorisation, removes any public record or archive from an organ of State or from the National Archives or any other record centre or archival repository under the control of the Director, or from a place of deposit appointed under section 16 of this Act or who destroys any public record or archive except as provided for in sections 7 to 15 of this Act or who wilfully mutilates any public record or archive in an organ of State, in the National Archives or any other record centre or archival repository under the control of the Director or in a place of deposit appointed under section 16 of this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or to both.

(2) Any public record or archive which has been removed without proper authorisation in the past or may be so removed in the future and which remains within the jurisdiction of the courts of Uganda may be reclaimed by the Agency.

(3) Any person who borrows any public record or archive material from an organ of state, or from the National Archives or any other centre or archival repository under the control of the Director or from a place of deposit appointed under section 16 of this Act, and refuses to return such borrowed item commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both.

23. Illegal export of historical documents

(1) Any person who contravenes section 21 of this Act commits an offence and is liable on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both.

(2) The records, archives or historical documents to which an offence under subsection (1) relates shall be put at the disposal of the Director, who may take them into his or her custody, and upon doing so the provisions of this Act relating to public records and archives shall have effect on any which are not already public records or archives.

PART VI—FINANCIAL PROVISIONS.

24. Funds

The funds of the Agency consist of—

- (a) money from time to time appropriated by Parliament for the purposes of the Agency;

- (b) grants, gifts, donations and loans that may be received by the Agency from any source within or outside Uganda;
- (c) any moneys which may accrue to the Agency by way of sales, fees or other payments for services;
- (d) any other moneys received by or made available to the Agency for the purpose of performing its functions under this Act.

25. Fees

(1) Fees may be charged for the supply of copies, the certification of copies and the provision of other services by the staff of the Agency.

(2) The fees shall be prescribed by the Minister by regulations made under section 31 of this Act; and the regulations may authorise the remission or reduction of the fees by the Director.

26. Estimates

(1) The Director shall, not later than three months before the end of each financial year, prepare and submit to the Advisory Committee for its approval and recommendation to the Minister, estimates of income and expenditure of, the Agency for the next ensuing financial year, and may at any time, before the end of that financial year, prepare and submit to the Advisory Committee for approval and recommendation to the Minister, any estimates supplementary to the estimates of the current financial year.

(2) No expenditure shall be made out of funds of the Agency unless that expenditure is part of the expenditure approved by the Minister under subsection (1) of this section.

27. Accounts

(1) The Agency shall keep proper books of accounts of all its income expenditure and proper records in relation to them in a form approved by the Auditor General.

(2) Subject to any directions given by the Minister, the Advisory Committee shall cause to be prepared in respect of each financial year, a statement which shall include a report on the performance of the Agency during that financial year; and the statement shall comprise—

- (a) a balance sheet and a statement of income and expenditure of the Agency in respect of that financial year; and
- (b) any other information in respect of the financial affairs of the agency as the Minister may require.

28. Audit

(1) The accounts of the Agency shall, in respect of each financial year, be audited by the Auditor-General or by an auditor appointed by the Auditor General.

(2) The Advisory Committee shall ensure that within two months after the close of each financial year, the statement of accounts described in section 27 of this Act is submitted for auditing.

(3) The Auditor General or an auditor appointed by the Auditor General shall have access to all books of accounts, vouchers and other financial records of the Agency and be entitled to have any information and explanation required by him or her in relation to them as he or she may think fit.

(4) The Auditor General shall, within two months after receipt of the statement of accounts under subsection (2) of this section, audit the accounts and deliver to the Advisory Committee a copy of the audited accounts together with his or her report on them stating any matter which in his or her opinion should be brought to the attention of the Minister.

29. Financial year of the Agency

The financial year of the Agency shall, in respect of the first accounting period be the period starting from the date of commencement of this Act and ending on the 30th June the following year, and in respect of any subsequent accounting period shall be the period of twelve months ending on the 30th June.

PART VII—GENERAL.

30. Annual Report

(1) Within three months after the end of each financial year, the Director shall submit to the Minister a report on the activities of the Agency during that year which shall be published.

(2) The Minister shall cause the annual report to be laid before Parliament.

31. Regulations

The Minister may and on the advice of the Advisory Committee make regulations for giving full effect to the provisions of this Act.

32. Power of Minister to amend Schedules

The Minister may, with the consent of the Cabinet, amend the Schedules to this Act by statutory instrument.

33. Repeal

The Records (Disposal) Act, and any rules made under it are repealed.

FIRST SCHEDULE.

SECTION 2

Currency Point

A currency point is equivalent to twenty thousand Uganda shillings.

SECOND SCHEDULE

SECTION 6 (6)

Meetings of Advisory Committee

1. Meeting of the Advisory Committee

(1) The Advisory Committee shall meet for the dispatch of business at least once in every quarter at such place and time as the Chairperson may appoint.

(2) A meeting shall also be called, upon a request in writing by not less than half of all the members of the Advisory Committee specifying the subject intended to be discussed at the meeting.

(3) The Chairperson shall preside at every meeting of the Advisory Committee and in the absence of the Chairperson a member elected by the members present at the meeting from their number shall preside.

(4) Except where there is an emergency, notice of a meeting shall be given to each member at least five days before the day of the meeting.

2. Quorum

The quorum at any meeting of the Advisory Committee shall be one third of the members of the Advisory Committee.

3. Decisions of the Advisory Committee

(1) Questions proposed at a meeting of the Advisory Committee shall be determined by a simple majority of the members present and voting and in the case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(2) A decision may be made by the Advisory Committee without a meeting by circulation of the relevant papers among the members of the Advisory Committee and by the expression of the views of the majority of the members in writing; but any member is entitled to require that the decision is brought be considered at a meeting of the Advisory Committee.

4. Minutes of the Advisory Committee

(1) The Advisory Committee shall cause to be recorded and kept all minutes of its meetings in a manner prescribed by the Advisory Committee.

(2) The minutes recorded under subsection (1) shall be submitted to and confirmed by the Advisory Committee at its meeting next following that to which the minutes relate and on confirmation the minutes shall be signed by the Chairperson, and the person acting as Secretary in the presence of the other members present at that meeting.

(3) The Director shall be the custodian of the minutes of the Advisory Committee.

5. Residual power of Advisory Committee to regulate its proceedings

Subject to the provisions of this Schedule, the Advisory Committee may regulate its own proceedings and the proceedings of its committees.