

THE NATIONAL ARCHIVES ACT, 1988.

ARRANGEMENT OF SECTIONS

SECTION

TITLE

1. Short title commencement.
2. Interpretation.

PART II

THE NATIONAL ARCHIVES AND  
PLACES OF DEPOSIT

3. The National Archives of Zanzibar.
4. Other places of deposit.
5. The Chief Archivist and staff of the National Archives.
6. Custodians of places of deposit and powers of the Chief Archivist in respect of such places.
7. Seals.
8. Secrecy.

PART III

SELECTION OF AND ACCESS TO  
PUBLIC ARCHIVES

9. Selection and preservation of public records and transfer to the National Archives .
10. Destruction of archives and public records.
11. Access to public archives.

PART IV

EXPORTATION AND REMOVAL OF ARCHIVES  
AND OTHER DOCUMENTS

12. Restriction of exportation of or authorized removal of public archives or public record.
13. Declaration of historical records.

SECTION

TITLE

PART V

VALIDITY, EVIDENCE AND COPYRIGHT

14. Legal validity of public records.
15. Authentication of copies.
16. Copyright.

PART VI

MISCELLANEOUS

17. Establishment of the National Archives.
18. Advisory Board composition and function.
19. Tenure of office of the Board.
20. Meeting, procedure and quorum of the Board.
21. Regulations.

THE SCHEDULE - PART I And PART II.

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ACT NO. 7 OF 1988

I ASSENT

*Idris Abdul Wakil*

IDRIS ABDUL WAKIL -  
PRESIDENT OF ZANZIBAR

AND  
CHAIRMAN OF THE REVOLUTIONARY  
COUNCIL.

*8<sup>th</sup> April* .....1989.

AN ACT TO ESTABLISH THE ZANZIBAR NATIONAL  
ARCHIVES, TO PROVIDE FOR THE PRESERVATION  
OF PUBLIC RECORDS AND FOR OTHER MATTERS  
CONNECTED THEREWITH AND INCIDENTAL THERETO.

ENACTED BY THE HOUSE OF REPRESENTATIVES  
OF ZANZIBAR.

PART I

PRELIMINARY

Short title  
and  
commencement.

1.(1) This Act may be cited as the National Archives Act, 1988 and subject to the provisions of subsection (2) of this section, shall come into operation on such date as the Minister may 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.

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

"The Chief Archivist" means the chief archivist appointed under section 5 of this Act;

"The Director" means the Director for the time being responsible for Archives;

"The Government" means the Revolutionary Government of Zanzibar;

"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 3 to 8 (inclusive) included a place of deposit;

"place of deposit" means a place appointed under section 4;

"The President" means the President of Zanzibar;

"public archives" means :-

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

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

"public records" means the records described in the Schedule to this Act;

"record" include not only written records, but records conveying 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 purpose 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.

PART II

THE NATIONAL ARCHIVES AND PLACES  
OF DEPOSIT

The National  
Archives  
of  
Zanzibar.

3. There shall be constituted and maintained a public office to be called the National Archives of Zanzibar 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 exists 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 deposits in lieu of the National Archives and, in relation to such public records, the provisions of this Act shall have effect accordingly.

The Chief  
Archivist  
and staff  
of the  
National  
Archives.

5.(1) There shall be a Chief Archivist of the National Archives who shall be appointed by the Minister.

(2) The office of the Chief Archivist and the other staff of the National Archives shall be offices in the service of the Government.

(3) No person shall be appointed as the Chief Archivist unless he attains academic qualifications and experience in the field related to archives and historical records.

(4) Subject to the direction of the Minister, the Chief Archivist 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 Chief Archivist by this Act, it shall be the duty of the Chief Archivist to take all practicable steps for the proper management and control of the National Archives and for the preservation of the public archives therein.

(5) Subject to the directions and, in respect of the matters provided for in paragraph (g), to the approval of the Minister, The Chief Archivist 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 respect 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.

Custodians of places of deposit and powers of the Chief Archivist in respect of such places.

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.

(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 Chief Archivist, have the charge of, and be responsible for the preservation of, the public Archives therein.

(3) The Chief Archivist shall have access to every place of deposit, may exercise, in relation to any place of deposit and to the public archives therein,

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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.

Seals.

7.(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 Chief Archivist and may be used for the purposes of the National Archives and for the purpose of any place of deposits for which no separate seal is provided.

(3) The Minister may provide an official seal for the purpose of any place of deposit and any such seal 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 record containing information obtained from members of the public the disclosure of which is by written law, prohibited or limited to certain purposes any person in charge of such place or 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 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 and 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 III

SELECTION OF AND ACCESS TO  
PUBLIC ARCHIVES

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

9.(1) The Chief Archivist 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 Chief Archivist 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 Chief Archivist 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 Chief Archivist and any such officer appropriate facilities for such examination and selection; and
- (b) to provide for the assemblage and safe keeping, in accordance with any regulations made under this Act and the directions of the Chief Archivist, of those public records, whether or not examined by the Chief Archivist or any such officer, which the Chief Archivist 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 ten 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 Chief Archivist may, if it appears to him the interest 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 the office from which they were transferred.

Destruction  
of  
archives  
and public  
records.

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 Chief Archivist 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:

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

Access to  
public  
archives.

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 Chief Archivist 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.

(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 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.

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- (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.

PART IV

EXPORTATION AND REMOVAL OF ARCHIVES AND  
OTHER DOCUMENTS

Restriction  
of  
exportation  
of or  
authorized  
removal of  
public  
archives or  
public record.

- 12.(1) No person shall export from Zanzibar 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 relate 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 exceeding twenty thousand shillings or to imprisonment for a term 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 Government 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 Zanzibar is of historical value to Zanzibar, 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 on historical record the export from Zanzibar 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 records as the Director.

(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 Zanzibar without the licence of the Director; or

12/....

(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 twenty 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.

PART V

VALIDITY, EVIDENCE AND COPYRIGHT

Legal  
validity  
of public  
records.

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.

Authen-  
tication  
of  
copies.

15. A copy of or extract from any record in the National Archives purporting to be duly certified as true and authentic by the Chief Archivist 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 seals of the National Archives or of the place of deposit, shall be admissible in evidence in the proceedings.

Copyright.

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 Chief Archivist.

Provided that in its application to any archives 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.

PART VI

MISCELLANEOUS

Establishment  
of the  
National  
Archives.

17. There is hereby established a Board to be known as the National Archives Advisory Board.

Advisory  
Board  
composition  
and function.

18.(1) The Board shall consist of -

- (a) chairman who shall be appointed by the President in consultation with the Minister;
- (b) Director;
- (c) Chief Archivist who shall be the secretary to the Board;
- (d) Such other members who are conversant with the field of public archives and historical records whose number shall not exceed seven, the Minister may by notice in the Gazette appoint.

(2) The functions of the Board shall be to advise the Minister on matters relating to access by members of public to public archives and services offered by the National Archives and on such other matters relating to the public archives and to historical records as the Minister may refer to the Board.

Tenure of  
office of  
the Board.

19. A member of the Board other than the Director and the Chief Archivist shall hold office for a period of five years unless his appointment shall have been previously revoked and shall be eligible for re-appointment.

14/....

Meeting,  
procedure  
and  
quorum  
of the  
Board.

20.(1) The Board shall normally meet at least once in every four months.

(2) The Chairman of the Board shall preside over the Board's meeting. In his absence the members present shall appoint from amongst themselves an acting chairman to preside over the meeting.

(3) The Board shall regulate its own procedures provided that the quorum at any Board meeting shall be half of the members present and any decision made by the Board at any Board meeting shall be by majority vote of members present and voting.

Regulations.

21. 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 offices 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;
- (g) generally for the better carrying out of the provisions of this Act.



THE SCHEDULE

PART I

1. The records of any Ministry or Government departments and of any commission, office or other body or establishment under the Government.
2. The records of the Revolutionary Council of Zanzibar.
3. The records of the High Court of Zanzibar and of any subordinate court or tribunal.
4. The records of the House of Representatives of Zanzibar and of the Electoral Commission.
5. 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:

- (a) any Board, Commission or Committee established or to be established under the Laws of Zanzibar;
- (b) any public enterprise established or to be established under the Laws of Zanzibar;
- (c) any government company established or to be established under the Laws of Zanzibar;
- (d) any institution established or to be established under the Laws of Zanzibar.

Passed in the House of Representatives  
on the 20th day of December, 1988.

*Abdul Rahman Ali Saleh*

ABDUL-RAHMAN ALI SALEH

CLERK TO THE HOUSE OF REPRESENTATIVES  
OF ZANZIBAR.