

TITLE 45.

HISTORIC AND CULTURAL PRESERVATION

CHAPTER 1.

NATIONAL ARCHIVES

ARRANGEMENT OF SECTIONS

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An Act to provide for the establishment of an Office of National Archives, to make provision for the custody and preservation of public records, and for matters connected therewith.

Commencement: April 14, 1989.

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P.L. 1992-3

PART I - PRELIMINARY

§101. **Short title.**

This Chapter may be cited as the National Archives Act 1989. [P.L. 1989-47, §1.]

§102. Interpretation.

In this Chapter, unless the context otherwise requires:

- (a) “Archivist” means the Archivist appointed under Section 104 of this Chapter;
- (b) “Current Marshall Islands records” means records currently used for the purpose of the institution using such records, other than the purposes under this Chapter;
- (c) “head of the public office” 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 the office;
- (d) “Historic Preservation Office” means the office established under 45 MIRC
- (e) “Historic Preservation Officer” means the Secretary of the Ministry responsible for administration of the Historic Preservation Act 1991.
- (f) “institution” includes any public office;
- (g) “manuscript” means any hand written document made of paper, copper, silver, gold or other material except granite;
- (h) “National Archives” means the Office of National Archives established under this Chapter;
- (i) “public archives” or “archives” means all public records and any other manuscript, document or printed matter kept or deposited at the National Archives for permanent preservation;
- (j) “public office” means any ministry, department, office, agency or instrument of any kind of the Government of the Republic of the Marshall Islands and includes any public corporation whose capital is partly or wholly provided by the Government, office of any diplomatic representative of the Republic and situated outside the Marshall Islands, or office of any Local Government Council;
- (k) “public record” or “record” means any original or copy of any manuscript, paper, letter, register, report, book, magazine, map, chart, plan, drawing, picture, photograph, or any other record or part thereof either handwritten, drawn, printed, produced in any other way on paper or on any other material and officially received or produced or prepared in any public office in the course of its official functions and includes any cinematography, film, recording, tape, disc or production in any other media received in any public office;
- (1) “printed matter” means any book, magazine, leaflet, newspaper or any other paper containing information printed by any mechanical or by any other process. [P.L. 1989-47, §2; amended by P.L. 1992-3, §2(1) and (2).]

PART II- ADMINISTRATION**§103. Office of National Archives.**

An Office known as the Office of National Archives is hereby established. The Office of National Archives shall be a part of the Historic Preservation Office. [P.L. 1989-47, §3, amended by P.L. 1992-3, §2(3).]

§104. Archivist and officers of the National Archives.

(1) The Historic Preservation Officer may appoint a person, by name or by office, to be or to act as the Archivist.

(2) There may also be appointed such other officers and personnel as may be necessary for the purposes of the Office of National Archives. [P.L. 1992-3, §2(4).]

§105. Administration of the Chapter.

(1) The Office of Historic Preservation is hereby authorized to contract for services to administer this Chapter. This may be done in lieu of or in addition to the appointment of persons pursuant to Section 104.

(2) The contractor shall be a person or corporation possessing the qualifications necessary to carry out the functions and duties of the Archivist as described in this Chapter.

(3) In the exercise of general functions, powers and duties under this Chapter, the Archivist or any entity contracting to provide the services of Archivist, shall act in consultation with the Historic Preservation Office. [P.L. 1992-3, §2(4).]

PART III- POWERS AND FUNCTIONS

§106. Functions of the Archivist.

(1) The functions of the Archivist shall be:

(a) to ensure the conservation and preservation of the existing and future archival resources of the Marshall Islands;

(b) to encourage and foster the preservation of all other archival resources relating to the Marshall Islands;

(c) to promote, by providing advice and other assistance to institutions, the keeping of current records in an efficient and economical manner and in a manner that will facilitate their use as part of the archival resources of the Marshall Islands;

(d) to seek to obtain, and to have the custody and management of, material not in the custody of a public office that forms part of the archival resources of the Marshall Islands and, in the opinion of the Archivist, ought to be in the custody of the Archives;

(e) to accept and have the custody and the management of material that, though not part of the archival resources of the Marshall Islands, forms part of archival resources relating to the Marshall Islands and ought to be in the custody of the archives in order to ensure its preservation or for other reasons;

(f) to encourage, facilitate, publicize and sponsor the use of archival material;

(g) to make archival records available for public access in accordance with this Chapter;

(h) to conduct research, provide advice, in relation to the management and preservation of records and other archival material;

(i) to develop and foster the coordination of activities relating to the preservation and use of archival resources of the Marshall Islands and other archival resources relating to the Marshall Islands.

(2) Nothing in this Part derogates from the powers and functions of any institution in the Marshall Islands in relation to the keeping of current Marshall Islands records. [P.L. 1989-47, §6.]

§107. Powers of the Archivist.

(1) The Archivist shall have charge of the National Archives and of archives deposited

therein and in addition to the specific functions conferred or imposed on him by this Chapter, he shall take all such measures as are necessary for the conservation of Archives.

(2) The Archivist, or any other officer of the National Archives authorized by him, shall have the power to do all such things as appear to him to be necessary or expedient for the purpose of the efficient administration of this Chapter and may, in particular:

- (a) establish and control repositories or other facilities to house or exhibit material of the Archives;
- (b) undertake the survey, appraisal, accessioning, arrangement, description and indexing of records;
- (c) make available and publish lists, indices, guides, inventories, calendars, texts, translations and such other things as may be necessary as aids to the archives in his custody;
- (d) provide for the restoration and conservation of archives in a suitable manner and make photographic reproductions or make copies, by microfilming or otherwise, of archives;
- (e) produce or cause to be produced any archives open to public inspection;
- (f) arrange for the publication or sale of material forming part of the archival resources of the Marshall Islands or works based on such material including replicas and copies;
- (g) examine any record or any other manuscript or document containing references to the Marshall Islands or which had its origin in the Marshall Islands with a view to securing either on loan or by purchase, the original or any copy thereof;
- (h) acquire by purchase, donation, bequest, contract, or otherwise or take on loan, any record, manuscript or document or any other material which, in his opinion, should be deposited in the National Archives for permanent preservation;
- (i) examine any collection of records or printed material in private possession for purposes of listing and recording and render such technical aid or assistance as may be necessary for the conservation and preservation of such records and printed material;
- (j) train, or assist in the training of persons, for work in connection with records and other archival material; and
- (k) hold public exhibitions or expositions of any class or description of archives, private documents, manuscripts or printed material deposited in the National Archives. [P.L. 1989-47, §7.]

§108. Selection and transfer of public records.

(1) The 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 and collecting information therefrom or to take such steps as are necessary for their transfer to the National Archives for permanent preservation.

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

- (a) to afford the Archivist or any officer authorized by him in writing, all facilities for the examination and selection of such public records for permanent preservation and for the transfer of such records to the National Archives;
- (b) to keep in safe custody in such office any class or description of public records selected by the Archivist or by any such other officer pending the transfer of such record to the National

Archives; and

(c) to perform such duties in connection with the selection and listing of such public records in his custody for transfer to the National Archives as may be required by the Archivist. [P.L. 1989-47, §8.]

PART IV - CUSTODY AND PRESERVATION OF ARCHIVES

§109. Deposit of public records.

(1) All public records of the age of twenty five (25) years or over, other than those which under any enactment are required to be held in custody of a specified person or public office, which in the opinion of the Archivist are of sufficient value to warrant their preservation, shall be transferred to the custody of the Archivist and be deposited in the National Archives; provided, however, that the transfer of any public records to the National Archives may be temporarily deferred and such records retained in the office of origin for administrative and other purposes for such period as may be agreed upon by the head of such public office and the Archivist, and in every such case a list of the records so retained shall be transmitted to the Archivist by the head of such office.

(2) Where the head of the office responsible for transferring any public records is of the opinion that such records are of a confidential or secret nature or contain information, the release of which may adversely affect the security of the Republic of the Marshall Islands, he may specify the conditions subject to which such records are kept in the National Archives or defer for such period as he may decide. It shall be the duty of the Archivist to comply with such conditions. [P.L. 1989-47, §9.]

§110. Documents relating to any public office to be closed down.

Where any public office is due to be closed down or wound up, the head of such public office shall transmit to the Archivist a complete list of all public records in that office and shall make arrangements to deposit in the National Archives such records as the Archivist may select or require for permanent preservation in the National Archives. [P.L. 1989-47, §10.]

§111. Records of Commissions, etc.

It shall be the duty of the Secretary of any Commission of Inquiry, appointed under the Commissions of Inquiry Act 1986 (6 MIRC 3) or any Committee of Inquiry appointed by a Minister or Government to deposit all records relating to such Commission or Committee, as the case may be, at the National Archives within three (3) months of the rendering of the final report of such Commission or Committee. [P.L. 1989-47, §11.]

§112. Deposit of public records less than twenty-five years of age.

(1) The Archivist may allow the deposit in the National Archives of public records less than twenty-five (25) years of age if he considers that they are of sufficient value for deposit.

(2) Any deposit of public records under the provisions of Subsection (1) of this Section may be subject to any special conditions imposed by the head of the office making the deposit. [P.L. 1989-47, §12.]

§113. Documents in private possession.

(1) Any private individual or the head of any institution in possession of any manuscript or document over twenty-five (25) years of age, being a manuscript or document of historical, cultural or literary value, may notify the Archivist of the existence of such manuscript or document.

(2) Such individual or the head of the institution shall afford the Archivist all facilities to, inspect such manuscript or document

(3) Such individual or the head of the institution shall if agreed upon by the Archivist, deposit at the National Archives such manuscript or document either on a permanent or temporary basis, and may specify the conditions subject to which such manuscript or document shall be made available for public inspection or extracts or copies therefrom shall be taken for publication or any other purpose. [P.L. 1989-47, §13.]

§114. Public records not in Archives.

(1) The Archivist may, from time to time, inspect any public records that are for the time being in the possession or under the control of any public office and give such instructions as to their safe preservation and such advice as to their efficient and economical administration and management as he considers necessary.

(2) Nothing in this Section shall be deemed to authorize the Archivist to inspect the contents of any public record:

(a) which by any written law are forbidden to be communicated to him; or

(b) which are secret or confidential, except with the consent of the head of the office having the custody thereof. [P.L. 1989-47, §14.]

§115. Transmission of certain copies or specimens of certain publications to the Archivist.

(1) It shall be the duty of:

(a) the head of any public office to transmit to the Archivist a copy of every annual report, statement of account and any other publication issued by such office, within thirty (30) days of such issue;

(b) the Controller of Postal Services to transmit to the Archivist a specimen of each new postage stamp first day cover, postal or money order form, aerogram and post card issued by the Controller of Postal Services, within thirty (30) days of such issue;

(c) the Secretary of Finance to transmit to the Archivist a canceled specimen of any new currency, note, or coin of every denomination and any specimen of any commemorative coin issued by the Government, within thirty (30) days of such issue;

(d) the head of any public office in custody of such document to transmit to the Archivist a copy of every map, plan, chart or other publication issued by the Government within thirty (30) days of such issue;

(e) the printer and publisher of every book printed or published in the Marshall Islands to transmit to the Archivist a copy of such book free of charge, within one month from the first day of delivery out of the press or first publication.

(2) For the purpose of Paragraph (e) of Subsection (1) of this Section, "book" includes every part or division of a book, pamphlet, periodical, newspaper, journal, magazine, review, gazette, or any other publication available to or open to inspection by the public. [P.L. 1989-47, §15.]

PART V - MISCELLANEOUS

§116. Prohibition of export of certain documents.

(1) No person shall, except on the written authority of the Archivist, export out of the Marshall Islands any public record, document or manuscript or any other printed matter which is over twenty-five (25) years old and which is of historical or cultural literary value.

(2) The Archivist may in his discretion refuse to issue written authority if he considers that such record, document or manuscript is of such historical, cultural or literary value that its export will not be in the national interest.

(3) Any person aggrieved by the refusal of the Archivist to issue such written authority may appeal to the Resource Protection Officer against such refusal within fourteen (14) days of the communication of such refusal. The decision of the Resource Protection Officer shall be communicated within fourteen (14) days of such appeal, and shall be final and conclusive. [P.L. 1989-47, §16.]

§117. Reproduction of public records.

No person shall publish or reproduce in whole or in part any of the contents of any public record which is in the custody of the National Archives, without the written consent of the Archivist. [P.L. 1989-47, §17.]

§118. Protection and preservation of public records.

(1) No person shall destroy or otherwise dispose of, or authorize the destruction or disposal of any public record that is in his possession or under his control except with the written consent of the Archivist given in accordance with the provisions of this Chapter.

(2) No person shall deface, alter, mutilate or in any way damage any public record except with the written consent of the Archivist. [P.L. 1989-47, §18.]

§119. Destruction of public records.

The Archivist may authorize the destruction, or destruction after the expiry of such specified time as may be agreed between the Archivist and the head of the public office concerned, of any specified public records or classes of public records that:

(a) by reason of their number, kind or routine nature do not in his opinion possess any enduring value for preservation in the National Archives; and

(b) are not required for reference purposes in the concerned public office after action on them is completed, or after expiry of such particular period. [P.L. 1989-47, §19.]

§120. Deposit in the National Archives of public and private records.

All public and private records received for permanent preservation by the Archivist shall be deposited in the repositories of the National Archives. [P.L. 1989-47, §20.]

§121. Temporary transfer of records.

Except as herein provided, public and private records deposited for permanent preservation shall not be removed from the National Archives to any other place for any other purpose

whatsoever; provided, however, where any public office which transmitted to the National Archives any record, document, manuscript or other thing requires the same for inspection by such office, such record, document, manuscript, or other thing may be forwarded to such officer by the Archivist for inspection and return within such period as may be specified by him. [P.L. 1989-47, §21.]

§122. Qualifications of Contractor.

Any Contractor proposing to undertake the administration of this Chapter must, either through a business plan if an individual or bylaws if a corporation, make such provisions as may be necessary to give effect to the principles of this Chapter. Such provisions shall include, but are not limited to the following:

- (a) selection of public records and private documents and manuscripts for permanent preservation;
- (b) care and custody of public records in public offices and other institutions;
- (c) public access to the public archives and the terms and conditions subject to which public archives are open to inspection;
- (d) prohibition or restriction of the disclosure of information obtained by the public from public archives;
- (e) maintenance of secrecy by officers of the National Archives in respect of any class or description of public archives in respect of which secrecy is required to be maintained by or under any written law; and
- (f) destruction of valueless records and documents in public offices. [P.L. 1992-3, §2(5).]

§123. Copyright.

(1) Nothing in this Chapter shall derogate from any provision of law relating to copyright in relation to anything contained in any public records deposited in the archives under the provisions of this Chapter.

(2) Where any person publishes any work containing any passage from any public record deposited in the archives, he shall in that publication acknowledge the source from which that passage is taken. [P.L. 1989-47, §23.]

§124. Funding.

Funds for the administration of this Chapter shall be provided through an appropriation to the Historic Preservation Office. [P.L. 1992-3, §2(6).]

§125. Regulations.

The Historic Preservation Office may, in accordance with the Marshall Islands Administrative Procedure Act, promulgate regulations that will govern the administration of this Chapter. [P.L. 1992-3, §2(7).]