



No. 31 of 1993.

***National Library and Archives Act 1993.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No.            of 1993.

*National Library and Archives Act 1993.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

AN ACT

entitled

*National Library and Archives Act 1993.*

Being an Act to -

- (a) establish an Office of Libraries and Archives; and
- (b) make provision in respect of specific functions and responsibilities of that Office and of the National Library Service and National Archives and Public Records Service, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. (*Qualified rights*) of the *Constitution*, namely -

- (a) the right to freedom of expression conferred by Section 46 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 53(1) (*Protection from unjust deprivation of property*) of the *Constitution*, it is hereby declared that the deposit of publications in accordance with Part V is a public purpose.

(3) For the purposes of Section 29 of the *Organic Law on Provincial Government*, it is hereby declared that this Act relates to a matter of national interest.

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### 2. INTERPRETATION.

In this Act, unless the contrary intention appears -

- "administrative head of a government instrumentality" means the person responsible for the overall administration of a government instrumentality, or, where there is any doubt as to who has that responsibility in a government instrumentality, the person declared by the Minister by notice in the National Gazette to be the administrative head of that government instrumentality;
- "appropriate materials" means national bibliography, brochures, standards, procedure manuals, booklists and copies of significant archival holdings;
- "archival resources" means all public archives and other materials of national significance -
- (a) made or received by a government instrumentality; or
  - (b) made or received by a private organization or individual;
- "author" means any person (natural or corporate) responsible for the creation or compilation of any publication;
- "Director-General" means the Director-General of the Office of Libraries and Archives appointed under Section 7;
- "disposal" means the action taken on public records and archives for the purposes of this Act, and includes -
- (a) retaining for a period; or
  - (b) transferring to another institution; or
  - (c) transferring to an archival repository; or
  - (d) destruction;
- "government instrumentality" means any -
- (a) government body; or
  - (b) Ministerial office; or
  - (c) Department; or
  - (d) Provincial government or Department; or
  - (e) State Service; or
  - (f) Commission of Inquiry under the *Commissions of Inquiry Act* (Chapter 31);
  - (g) instrumentality or public authority or other body (corporate or unincorporate), established by or under a Constitutional Law or an Act of the Parliament, or funded by the Government (in whole or in part), and declared by the Minister, by notice in the National Gazette, to be an instrumentality to which this Act applies;
- "government publication" means a publication -
- (a) issued at government expense; or
  - (b) published by authority of a government instrumentality;
- "legal deposit" means the requirement, enforceable by law, to deposit with a specified agency copies of publications of all kinds reproduced in any medium by any process for public distribution, lease, or sale;
- "library and archival material" means -
- (a) all forms of written, visual, aural, graphic or machine-readable records; and
  - (b) any other form of recorded information;
- "microforms" includes microfilm, microcard and microfiche;
- "National Archives" means the division of the National Archives and Public Records Service which accepts custody of and manages public records and archives;
- "National Archives and Public Records Service" means the National Archives and Public Records Service established by Section 3;

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- "National Archivist" means the officer in charge of the National Archives and the Public Records Service;
- "National Library and Archives Board" means a National Library and Archives Board established under Section 37;
- "National Librarian" means the officer in charge of the National Library Service;
- "new publication" means a work issued for the first time, and includes -
- (a) an edition differing in content from the original work, such as a revised, corrected, enlarged or abridged edition; or
  - (b) a translation of a work into another language; or
  - (c) a publication varying in form, such as a trade edition, a deluxe edition, a hard cover or soft cover edition, an edition in pocketbook format, in microform or in Braille or a talking book on tape or disc, or any other format; or
  - (d) a reprint of out-of-print work including a facsimile reproduction of an old publication; or
  - (e) an offprint such as -
    - (i) an extract from a book or periodical which is offered for public distribution or sale; or
    - (ii) an offprint which has been repaginated; or
    - (iii) an offprint which is issued as a series or as part of a series; or
  - (f) micropublication, being a publication of which a microform master has been produced from which further copies are made and offered to the public, and may be a reprint in miniature of a work already published or an original work published solely or first in microform;
- "Office" means the Office of Libraries and Archives established by Section 3;
- "public archives" means all public records determined by the Director-General to be of permanent value or to have intrinsic value;
- "public distribution" means distribution not only to the general public, but also to sections of the public being members of organizations in which membership is open to all persons who possess certain qualifications inherent in the nature of the organization;
- "public record" means a paper, document or record of any kind whatsoever officially made or received -
- (a) by any government instrumentality in the conduct of its affairs; or
  - (b) by any employee of the State in the course of his official duties; or
  - (c) that is in active use; or
  - (d) that is in semi-active use, which is still in the creating agency, or transferred to a records centre, and, without limiting the generality of the foregoing, includes a register, map, plan, drawing, photograph, magnetic tape, disc, cinematograph film and sound recording, so made or received, and includes a copy of a public record;
- "publication" means library material and other record or sample of culture reproduced in any medium, by any process, for public distribution, lease or sale;
- "publisher" means any person, or corporate body responsible for issuing a publication;
- "this Act" includes the regulations.

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### **PART II. - ESTABLISHMENT ETC., OF THE OFFICE OF LIBRARIES AND ARCHIVES.**

#### **3. ESTABLISHMENT OF THE OFFICE OF LIBRARIES AND ARCHIVES.**

There is established an Office of Libraries and Archives which shall include -

- (a) the National Library Service; and
- (b) the National Archives and Public Records Service; and
- (c) such other bodies as are specified by the National Executive Council by notice in the National Gazette.

#### **4. FUNCTION OF THE OFFICE OF LIBRARIES AND ARCHIVES.**

The function of the Office is to manage and administer the National Library Service and the National Archives and Public Records Service and such other bodies as are referred to in Section 3(c).

### **PART III. - FUNCTIONS OF THE NATIONAL LIBRARY SERVICE AND NATIONAL ARCHIVES AND PUBLIC RECORDS SERVICE.**

#### *Division 1. - Functions of National Library Service.*

#### **5. FUNCTIONS OF NATIONAL LIBRARY SERVICE.**

The functions of the National Library Service are -

- (a) to develop and maintain national collections of library materials, including a comprehensive collection of library materials relating to Papua New Guinea, its people and its resources; and
- (b) to maintain and preserve materials acquired by legal deposit under Part V; and
- (c) to make library materials in the national collections available to such persons and institutions in such manner and subject to such conditions as the Director-General may determine, with a view to making the most advantageous use of those collections in the national interest; and
- (d) to co-ordinate the bibliographical services of Papua New Guinea including -
  - (i) publication of a national bibliography to include all library materials published in Papua New Guinea; and
  - (ii) compilation and maintenance of a national union catalogue to facilitate inter-library loan and the sharing of information resources in Papua New Guinea; and
  - (iii) publication of selective, retrospective, and subject bibliographies as may be appropriate; and
  - (iv) assistance to national and international bibliographic projects; and
  - (v) establishment of national bibliographic standards in compliance with internationally accepted standards regarding bibliographic control of materials in Subparagraph (i); and
  - (vi) provision of other bibliographic services as deemed appropriate; and
- (e) to promote and encourage the organization of library and information services throughout Papua New Guinea; and
- (f) to initiate and plan the development and co-ordination of national library and information services, and to enter into agreements in relation to library matters with bodies within and outside Papua New Guinea; and

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- (g) to set and enforce standards for libraries in Papua New Guinea; and
- (h) to encourage the development and maintenance of literacy in Papua New Guinea; and
- (i) to promote and to conduct in-service training and short courses in the field of librarianship; and
- (j) to encourage and conduct research in librarianship and related fields; and
- (k) to provide professional advice and assistance to library staff in any government instrumentality and other organization; and
- (l) on request, to provide information services to the National Parliament, authorities, institutions, government instrumentalities and the general public; and
- (m) to administer a library run by a government instrumentality when requested by that government instrumentality so to do, provided that adequate resources are made available by that government instrumentality; and
- (n) to initiate and promote co-operation between the National Library Service and other institutions in the discharge of the functions stipulated in this section; and
- (o) to operate the International Standard Book Number agency for Papua New Guinea; and
- (p) to carry out any other functions necessary for the development and maintenance of library and information services in Papua New Guinea.

### *Division 2. - Functions of National Archives and Public Records Service.*

#### **6. FUNCTIONS OF THE NATIONAL ARCHIVES AND PUBLIC RECORDS SERVICE.**

The functions of the National Archives and Public Records Service are -

- (a) to ensure the conservation and preservation of the existing and future public and other archival resources of Papua New Guinea; and
- (b) to control the disposal of public records; and
- (c) to inspect and appraise all public records (including those restricted to normal access); and
- (d) to accept the deposit of public archives and be responsible for their safe custody; and
- (e) to accept the custody and management of non-public archives that are considered to be of National significance; and
- (f) to have responsibility for the custody, regulation and management of public records which are required so infrequently in the conduct of current business that they can be transferred to a separate storage area; and
- (g) to promote better management of public records and archives in an efficient and economical manner in government instrumentalities by providing advice and assistance in a way that will facilitate their use as part of the country's informational and archival resources; and
- (h) to provide advice and assistance to individuals and institutions having custody of non-public records; and
- (i) to promote and facilitate the use of archival sources, including arranging for publication of significant archives and indexes or other guides to archival material; and

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- (j) to provide assistance and facilities for persons using the archives; and
- (k) to record details regarding the structure and function, or changes thereto, of any government instrumentality; and
- (l) to take measures for conservation and restoration of archives; and
- (m) to make copies of archives and other records by microform or other means; and
- (n) to make arrangements for the acquisition, copying or custody of archival resources of Papua New Guinea, whether the resources are held in Papua New Guinea or overseas; and
- (o) to ascertain the material that constitutes the archival resources of Papua New Guinea and produce a national register of archives in Papua New Guinea; and
- (p) to train and assist in training of persons for the purpose of this Act; and
- (q) to plan and develop the co-ordination of activities relating to the management and preservation of public records and archives throughout Papua New Guinea; and
- (r) to maintain contact with overseas experts and institutions to further the development of archives in Papua New Guinea and exchange information on holdings and research in archival administration; and
- (s) to carry out other functions that are necessary for maintenance, care, custody and control of public archives in Papua New Guinea.

### **PART IV. - THE DIRECTOR-GENERAL OF THE OFFICE OF LIBRARIES AND ARCHIVES.**

#### **7. APPOINTMENT OF DIRECTOR-GENERAL, ETC.,**

- (1) There shall be a Director-General of the Office of Libraries and Archives.
- (2) The Director-General shall be an officer with relevant qualifications and experience in library and archives management appointed by notice in the National Gazette by the Minister after consultation with the Departmental Head of the Department responsible for personnel management matters.
- (3) The Director-General shall -
  - (a) be the head of the Office; and
  - (b) be responsible for the efficient management of the affairs of the Office; and
  - (c) develop and formulate policy for approval by the National Library and Archives Board; and
  - (d) be responsible directly to the Minister.
- (4) There shall be within the National Public Service, an office of -
  - (a) National Librarian, who shall, subject to the direction of the Director-General, control the National Library Service; and
  - (b) National Archivist, who shall, subject to the direction of the Director-General, control the National Archives and Public Records Services.

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**8. FUNCTIONS OF THE DIRECTOR-GENERAL.**

The functions of the Director-General are -

- (a) to manage, control and direct the affairs of the Office; and
- (b) to co-ordinate the planning and implementation of a national policy on libraries, archives and information services; and
- (c) to encourage and promote the publication and display of appropriate materials by the Office; and
- (d) to administer grants to promote the Office and to advise government on the allocation of priorities for projects funded by outside agencies; and
- (e) to undertake the necessary consultation and liaison to ensure that the functions of the Office are carried out effectively and efficiently; and
- (f) such other functions as are given to him under this Act or any other law.

**9. DELEGATION OF POWERS AND FUNCTIONS.**

(1) Subject to Subsection (2), the Director-General may from time to time by instrument in writing delegate to any person all or any of his powers and functions under this Act (except this power of delegation).

(2) The following powers may be delegated only to the National Archivist -

- (a) the power authorizing retention, transfer or destruction of public archives and records; and
- (b) the power of granting access to archives and records.

**10. NATIONAL CULTURAL PROPERTY.**

The Director-General may recommend any library or archives materials to the appropriate authority, for consideration for declaration as national cultural property under the appropriate law.

**11. PUBLICATION OF MATERIAL.**

The Director-General may authorize -

- (a) publication of any public record deposited in the archives; and
- (b) publication of any suitable library materials.

**12. ANNUAL REPORT.**

(1) The Director-General may request, to be lodged with him by 31 March in each year, an annual report from the head of each responsible government instrumentality on the condition of libraries and archives in that government instrumentality.

(2) The Director-General shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the working of this Act, including any breaches or evasions of this Act of which the Director-General has notice.

(3) As soon as practicable after he has received a report under Subsection (2), the Minister shall cause a copy of the report furnished to be laid before the Parliament.

**13. GIFTS, ETC.,**

The Director-General may, on behalf of the Office -

- (a) accept gifts, devise, bequests and assignments made to the Office (whether on trust or otherwise) and act as trustee of moneys, library and archival materials or other property vested in the Office on trust; and

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- (b) act on behalf of the government in relation to the administration of a trust relating to library and archival materials.

**14. AID CO-ORDINATION.**

The Director-General has power to approve the allocation of aid assistance to libraries and archives in order to assist national library and archival development.

**15. LIBRARY STANDARDS.**

The Director-General may -

- (a) set and enforce standards for libraries; and
- (b) from time to time inspect the libraries.

**16. DISPOSAL OF PROPERTY.**

The Director-General may -

- (a) dispose of; or
- (b) lend or hire out,

library material or other goods, the property of the Office of National Libraries and National Archives and deposit the proceeds in the National Library and Archives Trust Account.

**PART V. - LEGAL DEPOSIT.**

**17. DEPOSITORIES.**

(1) The National Library is the official depository for the purposes of this Part.

- (2) The Minister may, by notice in the National Gazette, declare -
  - (a) any institution or institutions; or
  - (b) any library or libraries,

to which the public has access, to be a depository or depositories for the purposes of this Part.

(3) A declaration under Subsection (2) may limit the categories of publications deposit of which may, under this Part, be requested by the administrative head of the library or institution the subject of the declaration.

**18. LEGAL DEPOSIT OF PUBLICATIONS OTHER THAN GOVERNMENT PUBLICATIONS.**

(1) This section does not apply to a government publication.

(2) A publisher carrying on business in Papua New Guinea shall, before releasing a publication for sale, lease or free distribution to the public, deposit with the National Library at his own expense and without request by the National Library, two copies of the publication in an undamaged condition.

- (3) A person importing a new publication into Papua New Guinea which -
  - (a) deals wholly or substantially with Papua New Guinea subjects; and
  - (b) is imported in reasonable quantities for sale, lease or free distribution to the public,

shall, before releasing the publication for sale, lease or free distribution to the public, deposit with the National Library at his own expense and without request by the National Library, two copies of the publication in an undamaged condition.

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(4) A citizen who is the author of a publication published outside Papua New Guinea shall, unless the publication is imported and deposited by the importer under Subsection (3), deposit with the National Library at his own expense and without request by the National Library, two copies of the publication in an undamaged condition.

(5) The National Librarian shall issue, to a person depositing a publication under this section, a receipt for that publication.

(6) A person, who fails to comply with the provision of Subsection (2), (3) or (4), is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

(7) In addition to any fine imposed under Subsection (6), the court imposing the fine may order the person convicted to comply with the provision of this section.

### **19. LEGAL DEPOSIT OF GOVERNMENT PUBLICATIONS.**

(1) Subject to Subsection (2) the administrative head of a government instrumentality shall, before issuing a government publication, deposit with the National Library at the expense of that government instrumentality and without request by the National Library, two copies of that government publication in an undamaged condition.

(2) The provisions of Subsection (1) do not apply to a government publication -

- (a) which, in accordance with the provisions of this section, is classified by the administrative head of the government instrumentality issuing it as secret; or
- (b) which is exempted from the provision of Subsection (1) by the Director-General.

(3) Where the administrative head of a government instrumentality intends to classify a government publication as secret for the purposes of this section, he shall by written notice to the Director-General -

- (a) notify his intention to classify the government publication as secret for the purposes of this section; and
- (b) give an outline of the contents of the government publication and give his reasons why it should be so classified; and
- (c) require the Director-General, if he has any objection to the proposed classification, to intimate his objection in writing to the administrative head within 14 days of receipt by the Director-General of the notice under Paragraph (a).

(4) The administrative head of a government instrumentality shall consider any objections made by the Director-General under Subsection (3)(c) and shall by written notice advise the Director-General whether -

- (a) he intends to classify the government publication as secret; or
- (b) he no longer intends to classify the government publication as secret.

(5) The Director-General may, within 14 days after receiving written notification under Subsection (4)(a), refer the matter to the Chief Ombudsman, and the Chief Ombudsman, after making such enquiry as he considers appropriate, shall confirm or reject the decision made under Subsection (4)(a).

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(6) The administrative head of a government instrumentality may, before depositing a government publication under Subsection (1), mark it as restricted and specify conditions concerning access to it.

(7) Where the administrative head of a government instrumentality has marked a government publication under Subsection (6), he shall, on depositing it under Subsection (2), advise the National Librarian of the conditions specified and access to that government publication shall only be given where the conditions are complied with.

### **20. DEPOSIT WITH DECLARED DEPOSITORIES.**

(1) A person to whom Section 18(2), (3) or (4) applies shall, where so requested by the administrative head of a library or institution declared to be a depository under Section 17(2), in respect of a publication of a category deposit of which may be requested by that library or institution, deposit free of charge with that declared depository two copies of the publication referred to in Section 18(2), (3) or (4) as the case may be, in an undamaged condition.

(2) Subject to Subsection (3), the administrative head of a government instrumentality shall, where so requested by the administrative head of a library or institution declared to be a depository under Section 17(2), in respect of a publication of a category deposit of which may be requested by that library or institution, deposit free of charge with that declared depository two copies of a government publication (other than a government publication to which Section 19(2) refers) in an undamaged condition.

(3) The administrative head of a government instrumentality may, before depositing a government publication under Subsection (2), mark it as restricted and specify conditions concerning access to it.

(4) Where the administrative head of a government instrumentality has marked a government publication under Subsection (3), he shall, on depositing it under Subsection (2), advise the administrative head of that declared depository of the conditions specified and access to that government publication shall only be given where the conditions are complied with.

### **21. DIRECTOR-GENERAL MAY REQUIRE DEPOSIT OF UNPUBLISHED WORKS, ETC.,**

The Director-General may require -

(a) an author, resident in Papua New Guinea, of an unpublished work; or

(b) a composer, resident in Papua New Guinea, of an unpublished score of musical works,

which has been performed, to deliver to the National Library at the expense of the author or composer one copy of the work or score of musical works in an undamaged condition.

### **22. GOODS TO BE SUPPLIED WITH CERTAIN PUBLICATIONS.**

A person who, in accordance with this Part is required to deposit a publication or government publication which is -

(a) an audio-visual recording; or<sup>o</sup>

(b) a sound record; or

(c) a film; or

(d) a multi-media kit; or

(e) computer software; or

(f) a micro-publication; or

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(g) any other material not readily browsable, shall deposit with the publication or government publication any relevant container, wrappers, holders, notices, instructions or other visually perceptible matter.

**23. DIRECTOR-GENERAL MAY TRANSFER PUBLICATIONS DEPOSITED.**

The Director-General may, at his discretion, transfer any publication deposited with the National Library under this Part to a library or institution declared to be a depository under Section 17(2).

**PART VI. - NATIONAL ARCHIVES AND PUBLIC RECORDS.**

**24. POWERS OF DIRECTOR-GENERAL.**

Subject to this Act, without limiting the generality of the powers and functions of the Director-General under this Act, the Director-General may, in the performance of his functions in relation to the National Archives and Public Records Office -

- (a) establish and control repositories or other facilities and set standards for the storage and exhibition of archives; and
- (b) survey, appraise and organize the disposal of public records; and
- (c) receive transfer of public records and arrange, describe and provide relevant indexes for public archives; and
- (d) authorize the disposal of public records after appraisal; and
- (e) inspect archives not in the National Archives; and
- (f) approve all governmental record copying projects; and
- (g) approve the return of public archives to the government instrumentality that transferred them for a specified term and, subject to conditions that may be prescribed, to ensure safe custody and preservation; and
- (h) subject to any conditions of transfer, approve access to archives; and
- (i) certify copies of archives for legal use; and
- (j) do any other things necessary, or incidental to, carrying out the functions under this Act.

**25. PREPARATION OF INVENTORIES OF RECORDS.**

The administrative head of each government instrumentality shall -

- (a) within six months of the coming into operation of this Act; and
  - (b) every five years thereafter,
- prepare and submit to the Director-General,
- (c) an inventory of all public records held by that government instrumentality; and
  - (d) a further inventory specifying any of these public records which the administrative head considers to be not worth retaining.

**26. TRANSFER OF PUBLIC RECORDS TO NATIONAL ARCHIVES.**

(1) Subject to this section, the administrative head of each government instrumentality shall transfer to the National Archives all public records held by that government instrumentality which -

- (a) are 20 years old or over; and
- (b) in the opinion of the Director-General are worth permanent preservation as -

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- (i) evidence of the organization, functions and transactions of the government instrumentality in which they were originally made or received; or
- (ii) evidence of public or private personal rights; or
- (iii) containing historical or other important information.

(2) The provisions of Subsection (1) do not apply to a public record which -

- (a) in accordance with any law or Act, is required to be kept in the custody of some other person or official body; or
- (b) is specified in an inventory submitted under Section 25(d), and agreed by the Director-General, to be not worth retaining.

(3) The administrative head of a government instrumentality and the Director-General may agree that the transfer of a public record in accordance with Subsection (1) may be deferred in any one or more of the following circumstances -

- (a) where the Director-General considers that transfer would be prejudicial to the effective administration of a government instrumentality;
- (b) where the public record is required by law to be kept secret;
- (c) where the administrative head satisfies the Director-General that, because of the confidential or secret nature of the public record, it would not be in the public interest to transfer them;
- (d) where it is certified in writing by the Minister who has the responsibility for the subject matter of the public records that -
  - (i) a specific public record contains; or
  - (ii) a class of public records contain, information the release of which may adversely affect the national security of Papua New Guinea or its relations with another country.

(4) Where a transfer of a public record is deferred under Subsection (3), the Director-General may specify conditions under which the public record is to be kept so as to ensure its safe preservation, and the administrative head of the government instrumentality concerned shall ensure that the public record is kept in accordance with any such conditions.

(5) Where there is a failure between the administrative head of a government instrumentality and the Director-General -

- (a) to agree on a deferral under Subsection (3); or
- (b) to agree on a condition under Subsection (4),

the administrative head or the Director-General shall refer the matter to the Chief Ombudsman for his decision and the administrative head and the Director-General shall give effect to such decision.

(6) The Secretary of a Commission of Inquiry shall, within seven days of the date of the making of the report by the Commission to the Minister under Section 15 of the *Commissions of Inquiry Act* (Chapter 31), transfer to the National Archives all public records in relation to that Commission of Inquiry subject to the provisions of Subsections (2), (3), (4) and (5) in relation to which subsections the Secretary shall be considered the administrative head of the Commission.

**27. RIGHT OF REPLEVIN.**

The Office has a right of replevin of public archives.

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**28. PUBLIC RECORD MAY BE TRANSFERRED BEFORE 20 YEARS.**

The administrative head of a government instrumentality may transfer a public record to the National Archives before it is 20 years old, where the Director-General considers it to be of permanent archival value.

**29. NON-PUBLIC RECORDS MAY BE ACCEPTED BY NATIONAL ARCHIVES.**

(1) The Director-General may, at his discretion, accept the transfer of records other than public records to the National Archives.

(2) The provisions of Sections 30, 32, 33 and 34 apply to records accepted under this section.

**30. DISPOSAL OF ARCHIVES AND PUBLIC RECORDS.**

Public archives and records shall not be disposed of without the prior written consent of -

- (a) the administrative head of the government instrumentality concerned; and
- (b) the Director-General or his delegate.

**31. DESTRUCTION OF ROUTINE PUBLIC RECORDS.**

Where both the administrative head of a government instrumentality and the Director-General agree, a specific class of records may be destroyed after the expiration of a specified time where -

- (a) by number, kind or routine nature, the records do not possess lasting value as public archives; and
- (b) the records are not required for reference purposes in any government instrumentality after any action on them is completed.

**32. DESTRUCTION OF OTHER PUBLIC RECORDS.**

Public records, other than those specified under Section 33, whether already in the National Archives or still held by the government agency, may be approved for destruction by the Director-General.

**33. DISPOSAL OF ARCHIVES TO OTHER REPOSITORIES.**

(1) Subject to this Act, the Director-General, with the agreement of the administrative head of the government instrumentality concerned, may authorize in writing the transfer of any public archives -

- (a) which are considered in excess of requirements; or
- (b) which are considered to be appropriate to be stored elsewhere, to a recognized and suitable repository, subject to compliance with any conditions which the Director-General may determine.

(2) Public archives transferred under Subsection (1) may be withdrawn from a repository if the conditions referred to in that subsection are not complied with.

**34. ACCESS TO ARCHIVES.**

(1) Subject to this section and to any conditions or regulations relating to their transfer, deposit or use, all archives shall be made available at reasonable times to any person in accordance with the provisions of this Act.

(2) The Director-General may refuse access to certain categories of archives by reasons of -

- (a) public policy; or
- (b) conformity with the policy of any other country whose affairs are concerned; or

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- (c) the personal nature of the archives; or
- (d) the state of the archives; or
- (e) the fragility of the archives; or
- (f) the need for organization of the archives.

(3) A person, aggrieved by a decision to refuse access under Subsection (2) may appeal to the Chief Ombudsman and the Director-General shall give effect to the decision of the Chief Ombudsman.

(4) Subject to the regulations, any person may make, at his own expense, copies of public archives available for public access.

### **35. ACKNOWLEDGMENT.**

A person publishing any passage from any public archive or a copy of any public archive shall acknowledge the source whence the passage was taken.

### **36. RESPONSIBILITIES OF INSTRUMENTALITIES.**

The administrative head of each government instrumentality shall -

- (a) nominate a senior officer to act as liaison between the government instrumentality and the Office; and
- (b) abide by procedures laid down in this Act.

## **PART VII. - MISCELLANEOUS.**

### **37. NATIONAL LIBRARY AND ARCHIVES BOARD.**

(1) The Minister may establish a National Library and Archives Board to advise on archives and library matters.

(2) The Board shall consist of -

- (a) the Director-General; and
- (b) not more than eleven members appointed by the Minister by notice in the National Gazette, being persons who, in the opinion of the Minister, by their knowledge and experience, can advance the full development of the Office of Libraries and Archives.

(3) The Minister shall appoint a member, other than the Director-General, to be the Chairman.

(4) The Board has, in addition to the powers otherwise conferred on it by this Act and any other law, power to advise the Minister, after consultation with other interested parties and the Director-General, on policy matters concerning the development of libraries and archives and related information services.

(5) The Board may recommend to the Minister -

- (a) policies in relation to the co-ordination, planning and management of libraries, archives and information services; and
- (b) a national plan for the development of libraries and archives and information services.

### **38. REGULATIONS.**

The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all things that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, without limiting in any way the generality of this section, for prescribing -

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- (a) deposit of any publication using the resources of the National Archives; and
- (b) procedures and quorums for meetings of the National Library and Archives Board; and
- (c) tenure of National Library and Archives Board members; and
- (d) categories of materials to be deposited under the provisions of this Act; and
- (e) the imposition of fines not exceeding K1000.00 for contravention of the provisions of this Act including the Regulations; and
- (f) procedures for transfer of public records and archives to the National Archives; and
- (g) procedures for disposal of public records; and
- (h) public access and use of public records and archives; and
- (i) procedures for custody and preservation of public archives and records; and
- (j) procedures for inspection of archives (not being public archives) and libraries; and
- (k) procedures for provision of advice and fees to be charged for services; and
- (l) provision of agreements for storage, care and control of public archives in any government instrumentality; and
- (m) provision of signing of Oaths by archivists and librarians to maintain confidentiality; and
- (n) the categories of publications of which no copies are required to be deposited in the National Library, unless specifically requested by the Director-General; and
- (o) the bibliographical information which must accompany the copies of publications deposited and the further biographical information which may be requested; and
- (p) fees to be paid for services provided by the National Library Service and by the National Archives and Public Records Service.

I hereby certify that the above is a fair print of the *National Library and Archives Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *National Library and Archives Act 1993* was made by the National Parliament on 11 August<sup>o</sup>1993 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.

