

THE PUBLIC ARCHIVES, RECORDS AND DOCUMENTATION BILL, 2019

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THE PUBLIC ARCHIVES, RECORDS AND DOCUMENTATION BILL, 2019

A Bill for

AN ACT of Parliament to establish Kenya Archives and Records Service and provide for its functions and administration; to provide for the management and preservation of public records, public archives and government publications; to provide for the disposal of records and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

PART I – PRELIMINARY

Short title. **1.** This Act may be cited as the Public Archives, Records and Documentation Act, 2019.

Interpretation. **2.** In this Act, unless the context otherwise requires—

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

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to archives and records;

“Council” means the Public Archives and Records (Advisory) Council established under section 11;

“Director-General” means the Director-General of the Service appointed under section 8;

“documentation link centre” means the documentation link centre established in accordance with section 19;

“electronic record” means any information generated, processed and stored by means of computer technology;

No. 31 of 2016. “exempt information” has the meaning assigned to it under the Access to Information Act, 2016;

“historical record” means an account, writing or narrative description of past events preserved in an authentic form due to their historical value;

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“National Archives” means the place wherein are housed or preserved such public records that have been acquired or received to form part of the public archives or transferred to the Service;

“oral archives” means oral history and traditions collected, captured, processed and preserved as archives due to their enduring historical or informational value;

“place of deposit” means the permitted area of depositing, housing or preservation approved under section 20;

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

“public archives” means public records and other record which are housed or preserved by the Service;

“public record” means the records specified in the Schedule:

Provided that the Cabinet Secretary may, by order in the *Gazette*, amend the First Schedule;

“private records” means records other than public records specified in the Schedule to this Act;

“record” includes not only written record, but records conveying information by any means whatsoever created, received and maintained as evidence and as an asset of an organization or person in pursuit of legal obligations or in transaction of business;

“disposal” means the removal of a record from its place of origin for destruction or preservation;

“semi-current records” means records occasionally required in the conduct of current business; and

“Service” means the Kenya Archives and Records Service established under section 4.

Objects and principles of the Act.

- 3.** (1) The objects of this Act are to—
- (a) provide a framework for efficient and effective management of public records;

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- (b) guide the acquisition and preservation of public records, archives and Government publications;
- (c) provide a framework for the preservation and administration of all papers and historical materials of the President and former presidents of the Republic of Kenya; and
- (d) facilitate public awareness and provide access to any records, archives and Government publications under this Act

(2) In fulfilling its mandate, the Service shall act in accordance with the values and principles of governance set out in the Constitution and any other written law.

PART II – ESTABLISHMENT OF THE KENYA ARCHIVES AND RECORDS SERVICE

Establishment of the Kenya Archives and Records Service.

4. (1) There is established the Kenya Archives and Records Service.

(2) The headquarters of the Service shall be in Nairobi but the Service may establish branches to ensure reasonable access of its services in all parts of Kenya.

Functions of the Service.

5. (1) The Service shall, under the general supervision of the Cabinet Secretary, be responsible for the implementation of policies, directions and laws relating to archives and records management, documentation and information retrieval.

(2) Without prejudice to the generality of subsection (1), the functions of the Service shall be to—

- (a) examine any public records including electronic records and advise on the care, preservation, custody and control thereof;
- (b) regulate the access to and use of public archives or the facilities provided by the Service;
- (c) provide appropriate housing for records to be kept under special conditions;
- (d) establish and administer records management systems to be used by institutions and individuals under this Act;

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- (e) develop and recommend the appropriate systems for acquisition, reformatting and preservation of electronic records of enduring value;
- (f) create awareness on best practices relating to archives and records management;
- (g) collaborate with private institutions and individuals in respect of matters relating to archives and records management;
- (h) collaborate with the relevant institutions in the development of curricula and conducting trainings relating to archival science, records management and other ancillary subjects;
- (i) conduct and promote research relating to creation, preservation and use of public records and archives;
- (j) provide trainings programmes to ensure conformity with international best practices in archives, records management and documentation services;
- (k) survey, appraise and dispose public records;
- (l) compile and make available indexes and guides of all archives;
- (m) acquire and preserve records from defunct government bodies where there is no successor in function;
- (n) foster strategic partnerships and international collaborations for purposes of the Act;
- (o) monitor and evaluate compliance with this Act; and
- (p) perform such other function as may be conferred on it under this Act or any other relevant law.

Powers of the Service.

6. The Service shall exercise all powers necessary for the proper performance its functions under this Act but, without prejudice to the generality of the foregoing, the Service shall have power to—

- (a) acquire any public archive or records of historical value to Kenya;
- (b) require the transfer, to its custody, of any public record which should be housed by the Service; and

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- (c) receive gifts, testamentary bequests or loans of, any document, book, record, or other material of historical or other value, or any copy or replica thereof which should be added to the public archives.

PART III –ADMINISTRATION OF THE SERVICE

Organisation of
the Service.

7. The Service may establish such directorates, departments, divisions or units as may be necessary for the better carrying out of its functions.

(2) The Service shall, in consultation with the Public Service Commission, determine the staff establishment required for every directorate, department, division or unit created by Service to effectively perform its functions.

Director-General.

8. (1) There shall be a Director-General of the Service who shall be competitively recruited and appointed on such terms and conditions as the Public Service Commission may determine.

(2) A person shall qualify for appointment as the Director-General if such person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of leadership and integrity set out in Chapter six of the Constitution;
- (c) holds relevant academic and professional qualification with at least a master’s degree in the relevant field; and
- (d) has at least ten years’ professional experience in senior management.

Functions and
powers of the
Director-General

9. (1) The Director-General shall be responsible for—

- (a) the day-to-day management of the Service;
- (b) the management of the staff of the Service; and
- (c) perform such other duties as may be assigned from time to time.

(2) In the performance of the functions under this Act, the Director-General shall have power to—

- (a) control the making and authentication of copies of and extracts from the public archives for any purposes;

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- (b) take such necessary steps to acquire any public record or records of historical value to Kenya;
- (c) lend, on such conditions as considered necessary, any public archives for display at commemorative exhibition and any special purposes; and
- (d) approve any institution as a place of deposit, housing or preservation of archives or records.

Seal of Service.

10. (1) There shall be a seal of the Service of a design approved by the Cabinet Secretary and kept in the custody of the Director-General.

(2) The seal of the Service shall be authenticated by the signature of the Director-General or an officer of the Service authorised by the Director-General for that purpose.

Public Archives and Records (Advisory) Council

Establishment of the Public Archives and Records (Advisory) Council.

11. There is established a Council to be known as the Public Archives and Records (Advisory) Council.

- (2) The Advisory Council shall consist of
- (a) a Chairperson appointed by the Cabinet Secretary;
 - (b) the Principal Secretary in the ministry responsible for matters relating to archives and records management or a designated representative;
 - (c) the Principal Secretary in the ministry responsible for matters relating to information, communication and technology or a designated representative;
 - (d) the Principal Secretary in the ministry responsible for matters relating to finance or a designated representative;
 - (e) the Attorney-General or a designated representative;
 - (f) one person, not being a public officer, appointed by the Cabinet Secretary with knowledge and expertise in archives, records management or social sciences; and

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(g) one person nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary.

(3) The appointment of the members of the Council shall take into account the principles of gender and non-discrimination in accordance with the Constitution.

(4) The Director-General shall be an *ex officio* member and the secretary to the Council.

Functions of the Council.

12. (1) The functions of the Council shall be—

(a) to advise to the Cabinet Secretary on matters relating to the functions of the Service;

(b) to advance the objects of this Act through consultation and advocacy with relevant agencies; and

(c) such other functions as may be assigned from time to time.

(2) In the performance of its functions, the Council shall not take part in the day-to-day administration in the Service.

(3) The Council shall conduct its business and affairs in accordance with the Second Schedule.

Qualifications for appointment as chairperson or member of the Council.

13. (1) A person shall qualify for appointment as the Chairperson of the Council if such person—

(a) is a citizen of Kenya;

(b) holds a master's degree from a university recognized in Kenya;

(c) holds at least ten years' post qualification professional experience;

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution; and

(e) has a distinguished career in senior management position in either private or public sector;

(2) A person shall qualify for appointment as a member of the Council if such person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya;

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- (c) holds at least seven years' post qualification professional experience;
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution; and
- (e) has a distinguished career in senior management position in the respective field.

(3) A person shall not qualify for appointment as the Chairperson or a member of the Council if the person—

- (a) is a member of Parliament or County Assembly;
- (b) is a member of a governing body of a political party;
- (c) is a member of a Commission established under the Constitution;
- (d) is an undischarged bankrupt; or
- (e) is convicted of an offence and is sentenced to a term of imprisonment for a period exceeding six months.

(4) The Chairperson or a member other than an *ex officio* member may—

- (a) resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary if the member—
 - (i) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
 - (ii) is incapacitated by prolonged physical or mental illness; or
 - (iii) is otherwise unable or unfit to discharge his functions.

Tenure of office of Chairperson and members of the Council.

14. The Chairperson and members of the Council shall hold office for a term of three years and shall be eligible for re-appointment for a final term of three years.

Directorate of Archives

Establishment of the Directorate of Archives.

15. (1) There is established the Directorate of Archives within the Service.

(2) The functions of the Directorate of Archives shall be to—

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- (a) develop and implement procedures for the preservation of public records;
- (b) provide technical assistance on actions to be implemented in the care and preservation of archives;
- (c) facilitate access to public archives and the National Archives by providing appropriate guides, lists, indexes and other finding aids;
- (d) ensure compliance with established standards and practices on preservation of public archives; and
- (e) perform such other function as may be assigned from time to time.

Directorate of Records

Establishment of the Directorate of Records.

16. (1) There is established the Directorate of Records within the Service.

- (2) The functions of the Directorate of Archives shall be to—
 - (a) develop and implement standards and systems on record management;
 - (b) provide technical assistance and guidance on the records management and filing systems;
 - (c) in consultation with relevant agencies, determine the standards, systems and conditions under which electronic records shall be created, maintained, reformatted or reproduced;
 - (d) ensure compliance with standards for the management of public records; and
 - (e) perform such other functions as may be assigned from time to time.

Office of the Presidential Libraries and Archives

Establishment of the Office of the Presidential Library and Archives.

17. (1) There is established the Office of the Presidential Library and Archives within the Service.

- (2) The functions of the Office of the Presidential Library and Archives shall be to—
 - (a) coordinate and manage presidential library and archives as part of the national heritage of Kenya;

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- (b) safeguard presidential materials for research, teaching, study of the history of the Presidents and public policies;
- (c) undertake programs for the acquisition, preservation and use of historical materials and the development of presidential libraries and archives;
- (d) provide a central repository for the records and archives of the President;
- (e) perform such other functions as may be assigned from time to time.

Directorate of Documentation and Information Retrieval

Establishment of the Directorate of Documentation and Information Retrieval Unit.

18. (1) There is established the Directorate of Documentation and Information Retrieval within the Service.

(2) The functions of the Directorate of Documentation and Information Retrieval Unit shall be to—

- (a) acquire and control all categories of published and unpublished reports and other generally circulated documents produced or received in the government;
- (b) coordinate the establishment and operations of the documentation link centres;
- (c) organize and circulate to all major libraries and documentation link centres, an accessions list of all government documents and publications acquired;
- (d) collaborate with the Registrar of books and newspapers in preserving and archiving of books and newspapers published in Kenya;
- (e) performing such other functions as may be assigned from time to time.

Documentation link centres.

19. (1) There shall be documentation link centres in ministries, departments, agencies and Counties responsible for selection, acquisition, processing, storage and access to government information materials.

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(2) Where documentation link centres do not exist, the Service shall initiate appropriate measures for the establishment and development of such centres.

(3) The Service shall through documentation link centres, coordinate the acquisition and preservation of reports and other generally circulated documents in the public service.

PART IV – MANAGEMENT OF RECORDS AND ARCHIVES

General responsibilities relating to records.

20. (1) The head of a State Office or a Public Office at both the National level and County level shall_

- (a) in consultation with the responsible Ministry, ensure there are adequate and qualified records management personnel to discharge the record management function within the institution;
- (b) create or cause to be created such records which are essential for_
 - (i) the full documentation of the institutions functions, policies, procedures and transactions;
 - (ii) the efficient, economical and orderly execution of their duties; and
 - (iii) the continuity of his or her office;
- (c) ensure proper use, maintenance, care, control and disposal of public records of their institution;
- (d) safeguard the transfer, removal or loss of public records in the institution;
- (e) provide appropriate and adequate resources for managing semi-current records;
- (f) liaise with the Director-General on matters relating to the implementation of this Act.

Responsibilities relating to publications.

21. (1) Every Ministry, Department and Agency at both the National level and County level shall provide to the Service two copies of any published or generally circulated document or report produced by that Office.

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No. 31 of 2016.

(2) The creating office may prescribe the period within which the document shall remain restricted from circulation to other public offices or members of the public:

Provided that restriction from circulation shall only relate to exempt information as provided under the section 6 of the Access to Information Act, 2016.

(3) Without prejudice to the generality of subsection (1), the offices to provide two copies of their publications shall include—

(a) the Government Printer;

(b) the Director-General of the Kenya National Bureau of Statistics.

Place of deposit.

22. The Director-General may, by a notice in the *Gazette*, approve any institution whether private or otherwise as a place wherein may be deposited, housed or preserved, either permanently or temporarily, any public archives, records or records which have been declared historical records under this Act.

Private archives.

23. (1) The Director-General may, with the approval of the owner, records, declare any records, archive or historical materials as private archives for purposes of this Act.

(2) An institution or individual who owns or possesses the private archive declared under subsection (1) shall—

(a) exercise due care in preserving the archives;

(b) arrange, classify, list and describe the archives;

(c) transmit a copy of such lists or descriptions to the Director-General;

(d) report any losses of such archives to the Director-General;

(e) not destroy such archives without consulting the Director-General.

(3) The Director-General shall—

(a) coordinate public access to the private archives on such conditions as may be agreed upon; and

(b) make arrangements to publicise such archives for purposes of the Act.

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Declaration of private archives as public archives.

24. Where it appears to the Director-General that any private record or archives, or any part of them, is of national importance, and that it is in the public interest that they be acquired, the Director-General may, after consultation with the owner of the private records, acquire them, or any part of them, and declare them to be public records or archives for purposes of the Act.

Oral archives.

25. (1) The Director-General may declare oral traditions and history, which is deemed of public interest or historical value, as oral archives for purposes of this Act.

(2) The Director-General shall put in place mechanisms to acquire and preserve oral archives from institutions, centres and individuals holding or involved in the collection and storage of oral traditions and history.

Records of historical value.

26. Where the Director-General is satisfied that any record in or was made in Kenya is of historical value to Kenya, the Director-General may in writing served on the person having the custody of such record, declare such record to be an historical record.

Export of record of historical value.

27. (1) A person shall not export a record of historical value unless that person obtains a permit in the prescribed form and manner issued by the Director-General.

(2) The permit issued under subsection (1) shall specify—

(a) the description of the record sufficient to identify it;

(b) the conditions of custody, use, preservation and return of the historical record;

(c) such other conditions as the Director-General considers necessary.

(3) Any person aggrieved by—

(a) the declaration of any record as a record of historical value under section 25;

(b) the refusal of the Director-General to issue a permit for the export of such record; or

(c) by any terms or conditions in a permit issued under this section, may appeal to the Cabinet Secretary whose decision thereon shall be final.

- (3) A person who—
- (a) knowing any record to be declared an historical record under this section, exports or attempts to export it without a permit;
 - (b) contravenes any of the conditions of the license issued under this section;
 - (c) knowing any record to be declared an historical record, willfully destroys or otherwise disposes of, defaces, mutilates or damages such record; or
 - (d) having custody of a historical record, fails to take all reasonable steps to preserve and protect it,
- commits an offence and is liable, on conviction, to a fine not exceeding five million shillings, or to imprisonment for a term not exceeding two years, or to both.

Records of a defunct public office.

28. (1) Unless otherwise provided under any written law, the Service may have custody of or control over the public records of a defunct public office:

Provided that a public office shall be deemed to be defunct if it is no longer in operation and there is no successor to its duties and functions.

Public access to public archives.

29. (1) Subject to the law restricting the disclosure of information obtained from members of the public, public archives or any category thereof which have been in existence for at least thirty years may be made available for public access on such condition or such further period as may be prescribed.

(2) Notwithstanding subsection (1), public archives or any other category thereof transferred to the Service may be made available for public access notwithstanding that they have not been in existence for thirty years.

- (3) Nothing in this section shall—
- (a) limit any right to access any archives to which members of the public had access before their transfer to the Service; or
 - (b) preclude the Director-General from permitting any person, authorized by him in writing, to access any archive or any category thereof as specified in the instrument of authorisation.

Examination of restricted records and archives.

30. (1) The Director-General or any authorised officer may, with the permission of the head of the State Office or Public Office that has custody of such records, examine any the records whose access is restricted by any written law for the purposes of the Act.

(2) Where there are transferred to the Service any public records containing information obtained from members of the public or from other sources the disclosure of which is, by or under any written law prohibited or restricted to certain purposes, the Director-General and all officers of the Service having access to such public records shall take such oath or make such declaration relating to secrecy as is required by or under that written law.

Legal validity of public archives and records.

31. When it is a requirement of the validity of any public record that it be kept in or produced for legal custody, the validity of such record shall not be affected by the fact of its transfer to the Service.

Certified copies of public archives admissible as evidence.

32. In any legal proceeding, a copy of or extract from any public archive duly certified and authenticated by the Director-General or an approved officer, shall be admissible as evidence in any proceedings, without further proof, if the original record would have been admissible in evidence in such proceedings.

Copyright.

33. 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 under this Act, the copyright in such work shall not be deemed to have been infringed by the making or the supplying to any person of any reproduction of the work by or under the direction of the Director-General:

Provided that, in its application to any public archives obtained otherwise than under section 30, this section shall have effect subject to any express terms or conditions under which the same was obtained.

PART V – DISPOSAL OF PUBLIC RECORDS AND ARCHIVES

Destruction of public records and archives.

34. (1) Where the Director-General determines that any public archives or records are duplicated or should not be preserved, the Director-General may, in consultation with the Commission on Administrative Justice and with the approval of the Cabinet Secretary and of such other person as the Cabinet secretary considers to be primarily concerned with public archives or records of the category in question, authorise the destruction or other disposal of such public archives or records in the prescribed manner.

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(2) Despite the provisions of subsection (1), the Director-General shall not authorize the destruction or other disposal of any public archives or records-

(a) obtained otherwise than by transfer under this Act, contrary to the terms or conditions on which they were obtained; or

(b) obtained by gift, during the lifetime of the donor, without his consent.

No suit to lie on account of destruction.

35. No suit or other proceeding shall be instituted against any person in respect of the disposal by destruction or otherwise of any records, books or papers in accordance with the provisions of this Act.

Disposal of records of the Courts.

36. The Chief Justice may, after consultation with the Service and the Commission on Administrative Justice, make rules to provide for the disposal by destruction or otherwise of such records, books and papers, belonging to or being in the custody of the Superior Courts or subordinate courts.

Disposal of records of Registrar-General.

37. (1) The Attorney-General may, after consultation with the Service and the Commission on Administrative Justice make rules to provide for the disposal by destruction or otherwise of such records, books and papers, belonging to or being in the custody of the Registrar-General.

(2) For the purposes of this section, “Registrar-General” includes the officers specified in the Third Schedule to this Act.

PART VI – FINANCIAL PROVISIONS

Funds of the Service.

38. The funds of the Service shall consist of-

(a) monies allocated by Parliament for purposes of the Service;

(b) grants, gifts, donations or other endowments given to the Service; and

(c) such funds as may vest in or accrue to the Service in the performance of its functions under this Act or any other written law.

Financial year.

39. The financial year of the Service shall be the government financial year.

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Annual estimates.

40. (1) Before the commencement of each financial year, the Cabinet Secretary shall cause to be prepared estimates of revenue and expenditure of the Service for that year.

(2) The annual estimates shall make provision for accounts of all the estimated expenditure of the Service for the financial year concerned and in particular, shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Service;
- (b) the payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the Service;
- (c) maintenance of the buildings and grounds of the Service;
- (d) proper maintenance, repair and replacement of equipment and other movable property of the Service;
- (e) proper storage and preservation of public records and archives;
- (f) funding of training, research and development of activities of the Service; and
- (g) any other expenditure necessary for the performance of the functions of the Service under this Act.

Accounts and audit.

41. (1) The books and records of the income, expenditure, assets and liabilities of the Service shall be kept and maintained in accordance with the Public Finance Management Act, 2012.

No. 18 of 2012.

(2) The accounts of the Service shall be audited annually by the Auditor-General in accordance with the Public Audit Act, 2015.

No. 34 of 2015

PART VII – MISCELLANEOUS PROVISIONS

Register.

42. The Director-General shall maintain a register to be known as the Register of Archives and Records in which shall be recorded all the records and archives under the control and custody of the Service.

Reporting.

43. The Service shall, once a year and by a notice in the *Gazette*, publish an accession list of reports, records and documents acquired by the Service for purposes of access to information.

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Offences.

44. (1) Any person who willfully destroys or otherwise disposes, defaces, mutilates or damages any public records without the written consent of the Director-General, commits an offence.

(2) Any person who removes any public archives from its place of custody without the written consent of the Director-General commits an offence.

(4) Any person who obstructs or hinders the Director-General or any officer of the Service in the performance of their functions under this Act commits an offence.

(5) Any person convicted of an offence under this Act for which no specific penalty is prescribed shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months, or to both.

Guidelines.

45. The Cabinet Secretary may, on the recommendation of the Service, issue guidelines for the furtherance of the objectives of the Service.

Regulations.

46. The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing 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 Service;

(c) the examination and disposal of public archives and public records;

(d) the conditions under which public archives may be reproduced, or published or extracts made therefrom;

(e) the issuing of licenses for the exportation from Kenya of public archives, public records or historical records; and

(f) the fees to be paid for access to the National Archives or the use of the public archives or the facilities or services provided by the Service.

PART VIII – REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation of Part.

47. (1) In this Part—

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“Advisory Council” means the Public Archives Advisory Council established under the repealed Act;

“former Service” means the Kenya National Archives and Documentation Service established under the repealed Act;

“former Department” means the Records Management Department within the Ministry of Sports, Culture and Heritage existing immediately before the commencement of this Act;

“repealed Act” mean the Public Archives and Documentation Service Act; and

Cap. 19.

“transition period” means period of one year following the date of effectiveness of this Act or such period as may be determined by the Cabinet Secretary.

(2) The Service shall be the successor to the former Service existing immediately before the commencement of this Act.

Repeal of Cap. 14.

48. The Records Disposal Act is repealed.

Repeal of Cap. 19.

49. The Public Archives and Documentation Service Act is repealed.

Revocation of L.N No. 204 of 1966.

50. The Public Archives (Advisory Council) Regulations, 1966 are revoked.

Rights and obligations.

51. (1) All rights and obligations of the former Service existing at the commencement of this Act shall, by virtue of this section, be transferred to the Service and any reference to the former Service shall be deemed to be a reference to the Service established under this Act.

(2) All rights and obligations vested in or enforceable by or against the Government for and on behalf of the former Department shall, by virtue of this section, be transferred to, vested in, or become enforceable by or against the Service.

Assets and liabilities.

52. (1) All assets and liabilities of the former Service existing at the commencement of this Act shall, by virtue of this section, be transferred to the Service established under this Act.

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(2) All assets and liabilities which, immediately before the commencement of this Act, vested in or were held for and on behalf of the former Department shall, by virtue of this section, vest in the Service.

Existing
declarations.

53. Any declaration issued by the former Service and subsisting immediately before the commencement of this Act shall be deemed to have been issued under this Act.

Licence.

54. Any licence issued by the former Service under the repealed Act and subsisting immediately before the commencement of this Act shall be deemed to have been issued under this Act.

Staff.

55. (1) A person who was, immediately before the commencement of this Act, was an employee or officer of the former Service or the former Department shall, upon the commencement of this Act, be deemed to be an employee of the Service under this Act.

(2) Any person who immediately before the commencement of this Act was a member of the Advisory Council of the former Service shall cease to be a member of the Advisory Council upon the commencement of this Act.

(3) For the purpose of ensuring effective management of the Service during the transition period, the Director of the former Service shall be the interim Director-General of the Service and shall perform the functions of the Director-General for a period of one year or such other period as the Cabinet Secretary may determine.

FIRST SCHEDULE

(s. 2)

PUBLIC RECORDS

1. The records of any Ministry, Departments, Agencies and of any commission, board or any other body established by the Government or under an Act of Parliament:

Provided that nothing referred to in this paragraph shall include the records of the Public Trustee or the Registrar-General relating to individual trusts or estates.

2. The records of County Governments or any other body established by the County Governments.

3. The records in the offices of the President and of the Cabinet.

4. The records of the all Courts or Tribunal.

5. The records of Parliament and of the Independent Electoral and Boundaries Commission.

6. The records of any unit of the armed forces of the Republic or any officer of such a formation or unit subject to the law relating access to information.

SECOND SCHEDULE

(s.12(3))

CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. The Council shall meet a minimum of four times per year to discharge its functions
2. A meeting of the Council shall be held on a date and at a time as the Cabinet Secretary may determine.
3. The quorum for the conduct of business at a meeting of the Council shall be four members.
4. The Chairperson shall preside at every meeting of the Board at which the Chairperson is present:
Provided that in the absence of the Chairperson, the members present shall select one of the members present to preside at that meeting.
5. The recommendations of the Council shall be by concurrence of the members present but where concurrence is not achieved, decisions shall be by a majority of the members present.
6. The recommendations of the Council shall be signified in writing under the hand of the Chairperson and secretary save as may be provided for in any other written law.
7. The Council may co-opt not more than one-third of its members to attend and deliberate at its meetings if that person's knowledge or skills are necessary for the purposes of this Act.
8. A person who has been co-opted to attend and deliberate at a meeting of the Council shall not have a right to vote at the meeting.
9. Except as provided in this Schedule, the Council may regulate its own procedure.

THIRD SCHEDULE

(s.37)

OFFICERS INCLUDED IN THE DEFINITION OF "REGISTRAR-GENERAL"

<i>Officer</i>	<i>Act under which appointed.</i>
Official Receiver	Insolvency Act, 2015 (No. 18 of 2015)
Registrar of Societies.	Societies Act (Cap. 108)
Registrar of Books and Newspapers.	Books and Newspapers Act (Cap. 111)
Principal Registrar of Births and Deaths.	Births and Deaths Registration Act (Cap. 149)
Registrar of Marriages.	Marriage Act (No. 4 of 2014)
Public Trustee.	Public Trustee Act (Cap. 168)
Registrar of Trade Unions.	Labour Relations Act, 2007 (No. 14 of 2007)
Registrar of Companies.	Companies Act, 2015 (No. 17 of 2015)
Registrar of Insurance Companies.	Insurance Companies Act (Cap. 487)
Registrar of Building Societies.	Building Societies Act (Cap. 489)
Registrar of Business Names.	Registration of Business Names Act (Cap. 499)
Registrar of Trade Marks.	Trade Marks Act (Cap. 506)
Managing Director of the Kenya Industrial Property Institute	Industrial Property Act, 2001 (No. 3 of 2001)
Assistant Estate Duty Commissioner.	Estate Duty Act (Cap. 483)

MEMORANDUM OF OBJECTS AND REASONS

Dated the, 2019

AMINA C. MOHAMED,
Cabinet Secretary,
Ministry of Sports, Culture and Heritage.