

## CHAPTER 25:06

# NATIONAL ARCHIVES OF ZIMBABWE ACT

Act 8/1986, 22/2001 (s. 4).

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**AN ACT to provide for the storage and preservation of public archives and public records; for the declaration and preservation of protected historical records; and for matters incidental to or connected with the foregoing.**

[Date of commencement: 20th June, 1986.]

#### **1 Short title**

This Act may be cited as the National Archives of Zimbabwe Act [*Chapter 25:06*].

#### **2 Interpretation**

In this Act—

“Committee” means the Records Committee established in terms of section *eight*;

“Director” means the Director of National Archives referred to in section four;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“National Archives” means the National Archives of Zimbabwe referred to in section three;

“official purpose” includes any purpose connected with the performance of any function in the service of the State;

“protected historical record” means a record declared in terms of section twelve to be a protected historical record;

“public archive” means—

(a) any public record which—

(i) is twenty-five years old; and

(ii) has been specified by the Director as being of enduring or historical value; or

(b) any record or other material acquired for the National Archives by the Director in terms of paragraph (c) of section *five*;

“public record” means any record in the custody of any Ministry;

“record” means any medium in or on which information is recorded;

“repealed Act” means the National Archives Act [*Chapter 309 of 1974*];

“statutory body” means—

(i) any Commission established by the Constitution;

(ii) any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act. the membership of which consists wholly or mainly of persons appointed by the President or by a Minister.

### **3 National Archives of Zimbabwe**

The National Archives established in terms of the repealed Act shall, subject to this Act, continue in existence for the storage and preservation of public archives and public records and shall be known as the National Archives of Zimbabwe.

### **4 Director of National Archives**

There shall be a Director of National Archives whose office shall be a public office and form part of the Public Service and who shall, subject to this Act, have the functions which are conferred or imposed upon him in terms of this Act.

### **5 Functions of Director in respect of public archives**

The Director—

- (a) shall direct, manage and control the National Archives;
- (b) may reproduce or publish any public archive which has been transferred to the National Archives subject to any terms and conditions on which it was so transferred;
- (c) may acquire by purchase, donation, bequest or otherwise any record or other material which in his opinion is or is likely to be of enduring or historical value;
- (d) may specify any public record to be of enduring or historical value, by notice in writing to the Secretary of any Ministry in whose custody such public record is.

### **6 Functions of Director in respect of public records**

(1) Subject to subsection (2), the Director may, in respect of any Ministry—

- (a) inspect and examine the records of that Ministry;
- (b) give advice or instructions concerning the filing, maintenance and preservation and, when necessary, the transfer to the National Archives of the records of that Ministry;
- (c) give instructions with regard to the retention or destruction of the records of that Ministry.

(2) Before performing any function in terms of subsection (1), the Director shall consult the Secretary of the Ministry concerned and, in the event of any dispute or disagreement arising as to the performance of any such function, the matter shall be referred to the Minister responsible for the administration of the Ministry concerned for decision and his decision shall be final.

(3) Where the Director gives any instructions in terms of subsection (1), it shall be the duty of the Ministry concerned to comply with such instructions.

### **7 Functions of Director in respect of records of local authorities and statutory bodies**

(1) The Director may request any local authority or statutory body for access to its premises for the purpose of—

- (a) inspecting and examining its records;
- (b) giving advice relating to the filing, maintenance and preservation of its records;
- (c) making recommendations with regard to the retention or destruction of its records.

(2) Where a local authority or statutory body declines to comply with a request made in terms of subsection (1), such local authority or statutory body shall advise the Director in writing of its reasons therefor.

(3) On receipt of any reasons from a local authority or statutory body in terms of subsection (2), the Director may make representations in the matter to the Minister responsible for, or having authority in respect of, the local authority or statutory body concerned, who may take such action in the matter as he considers proper.

### **8 Records Committee**

(1) There is hereby established a Records Committee which shall consist of—

- (a) two persons appointed by the Minister in consultation with the Director from the staff of the National Archives, one of whom shall be designated as the chairman by the Minister;
- (b) two persons who are members of the Public Service appointed by the Minister;
- (c) such other persons as the Committee may invite from time to time to attend its meetings and give advice in regard to the matters in issue.

(2) Subject to any directions given by the Director, the Committee shall meet and conduct its business at such times and in such manner as it may determine.

(3) The functions of the Committee shall be to make recommendations to the Director with regard to—

- (a) the retention or destruction of public records;
- (b) the declaration of protected historical records; and
- (c) any other matters that may be prescribed.

(4) The Director shall in the performance of his functions have regard to the recommendations of the Committee:

Provided that the Director shall not advise or instruct any Ministry, local authority or statutory body with regard to the destruction of any record unless such destruction has been recommended by the Committee and approved by the Minister.

## **9 Inspection of public archives and public records**

Every person shall be entitled to inspect any public archive—

- (a) which is in the custody of the National Archives, with the consent of the Director;
- (b) which is in the custody of any Ministry, with the written consent of the Secretary of the Ministry concerned or any person authorized by him;

subject to such terms and conditions as may be imposed by the Director or the Secretary, as the case may be.

## **10 Reproduction of public archives and public records**

(1) No person shall publish or reproduce the whole or any part of the contents of any public archive or public record—

- (a) which is in the custody of the National Archives, without the written consent of the Director;
- (b) which is in the custody of any Ministry, without the written consent of the Secretary of the Ministry concerned.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## **11 Prohibition on removal out of Zimbabwe of public archives or public records**

(1) No person shall remove out of Zimbabwe any public archive or public record unless such public archive or public record is required for any official purpose.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## **12 Declaration of protected historical records**

(1) Where the Minister considers that any record by reason of its enduring or historical value deserves to be preserved and that it is in the national interest to do so, he may by statutory instrument declare such record to be a protected historical record and may, in like manner, revoke any such declaration.

(2) Any person who is aggrieved by the decision of the Minister in making a declaration in terms of subsection (1) may make representations to the Minister who shall on receipt thereof consider the same and may thereupon—

- (a) confirm his decision; or
- (b) reverse it and revoke the declaration.

## **13 Protection and preservation of protected historical records**

(1) No person shall, without the consent of the Minister in writing—

- (a) destroy, deface, alter, mutilate or in any way damage a records protected historical record;
- (b) remove a protected historical record out of Zimbabwe.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(3) Where a person is convicted of an offence in terms of paragraph (b) of subsection (1) the court may—

- (a) in addition to any sentence it may impose in respect of the offence, direct the person concerned to return the protected historical record concerned to Zimbabwe within such period as it may specify; or
- (b) postpone the passing of sentence till such date as it may specify to enable the person concerned to return the protected historical record concerned to Zimbabwe and on such date, when passing sentence, the court shall take into account whether or not the person concerned has returned the protected historical record and, if he has not, the reason for not doing so.

(4) Any person who fails without reasonable excuse, the proof whereof shall lie on him to comply with a direction made in terms of paragraph (a) of subsection (3) shall be guilty of an offence and liable to a fine not exceeding level seven.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(5) A conviction for an offence in terms of subsection (4) shall not be a bar to any further prosecution or conviction for any subsequent default of the direction concerned.

## **14 Control of sale of protected historical records**

(1) Subject to subsection (2), no person shall sell a protected historical record unless he has first made an offer to sell the protected historical record to the Director and—

- (a) the Director has not responded to the offer within thirty days of the making thereof; or
- (b) the Director has declined the offer; or

- (c) the Director has been unable to conclude an agreement of sale with the seller within sixty days of the making of the offer.
- (2) Subsection (1) shall not apply to the sale of any protected historical record—
  - (a) in execution of an order of court; or
  - (b) by a trustee in insolvency or a liquidator.
- (3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

## **15 Regulations**

- (1) The Minister may make regulations prescribing anything which in his opinion is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made in terms of subsection (1) may provide for—
  - (a) fees to be charged by the Director for the inspection of and the making and certifying of copies of any public archive or public record in the custody of the National Archives;
  - (b) the storage and preservation of public archives;
  - (c) the storage, preservation or destruction of public records;
  - (d) the preservation of protected historical records;
  - (e) premises of custodians of public records to be repositories for the storage of public records.
- (3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof not exceeding a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]