

BILL NO. 10 OF 1982

TUESDAY, 10TH AUGUST, 1982



GUYANA

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NATIONAL ARCHIVES OF GUYANA BILL 1982

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A BILL

intituled

AN ACT to make provision for the establishment of the National Archives of Guyana and for other matters relating thereto.

A.O. 1982 Enacted by the Parliament of Guyana:—

Short title. 1. This Act may be cited as the National Archives of Guyana Act 1982.

Interpretation. 2. In this Act —

“authorised officer” means an officer of the National Archives authorised in writing by the Archivist to perform functions under the Act;

“Committee” means the Advisory Committee appointed by the Minister under section 5;

“judicial records” means any records of proceedings before a court, tribunal, commission, board of inquiry or other judicial or quasi-judicial body or person which

- (a) are in the custody of —
 - (i) such court, tribunal, Commission, board, body or person;
 - (ii) any Ministry, department or public office, or
 - (iii) any person lawfully committed with such custody; or
- (b) stand transferred or have been transferred to the National Archives by or under this Act;

“National Archives” means the National Archives of Guyana established by section 3;

“public archives” means —

- (a) all public records which —
 - (i) are specified by the Archivist as being of enduring or historical value; and
 - (ii) stand transferred or have been transferred to the National Archives by or under this Act;
- (b) any records acquired by the Archivist or deposited with the National Archives under sections 14 and 15;

“public office” means any office, institution or agency financed from public funds and under the responsibility of a Minister and includes a local government office, a public corporation and a corporate body in which the controlling interest is vested in the State or in any agency on behalf of the State;

“public records” means —

- (a) any records of the Government or of a public office which —
 - (i) are in the custody of the Government or the public office; or
 - (ii) stand transferred or have been transferred to the National Archives by or under this Act;
- (b) any judicial record;

“records” includes any manuscript, newspaper, picture, painting, document, register, printed material, book, map, plan, drawing, photograph, negative and positive pictures, photocopy, microfilm, cinematograph film, video tape, magnetic tape, gramophone record or other transcription of

language, picture or music recorded by any means capable of reproduction and regardless of physical form and characteristics.

Establishment of the National Archives of Guyana

3 (1) The National Archives of Guyana is hereby established as a department and shall consist of the Archivist and such other persons as may be requisite for the purpose of carrying out the provision of this Act.

(2) The National Archives shall be the place of deposit for the storage and preservation of public archives

Archivist and his functions.

4 (1) The Archivist shall, subject to such directions as may be given by the Minister, be the principal administrative officer in charge of the National Archives and shall be the custodian of the public archives

(2) Subject to such directions as may be given by the Minister, the Archivist shall —

- (a) direct, manage and control the National Archives;
- (b) preserve, describe, classify and arrange all public archives;
- (c) exercise, perform and discharge any power, duty or function conferred or imposed upon the Archivist by or under the Publication and Newspapers Act, any other written law, or any other provisions of this Act.

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(3) In particular and without prejudice to the generality of subsection (2) the Archivist may —

- (a) subject to section 16, reproduce or publish or cause to be reproduced or published such public archives as he may deem fit;
- (b) lend, with the consent of the Minister, any public archives for display at commemorative, trade, art or international exhibitions or for any other special purpose approved by the Minister subject to such conditions as the Minister may impose with respect to such loan, ti
- (c) promote the advancement of historical and cultural knowledge by drawing up lists of public archives and undertaking historical and archival research, by publishing indices and guides to public archives, by opening to inspection public archives, and by organising exhibitions;
- (d) promote the national advancement by ensuring that Government officials and the general public are kept constantly supplied with information which is of benefit to the cause of national progress;

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- (e) apply modern records management principles and techniques to reduce the quantity and improve the quality of records, with particular attention to correspondence, reports, directives and to office equipment and supplies;
- (f) establish and run an oral archives programme;
- (g) give advice on all questions of a general nature regarding public archives;
- (h) decide all matters relating to the purchase, transfer, loan and exchange of records and authorise the destruction of records in the custody of the National Archives;
- (i) with respect to public records, inspect them and assess all proposals to destroy or remove material from ownership of the State and to ensure the transfer to the National Archives of such records as are required for deposit therein;
- (j) plan and publish periodically publications on public archives, monographs, calendars and collection of records;
- (k) exercise his right to recover records;
 - (l) ensure the restitution to the National Archives of public records in the possession of unauthorised persons;
- (m) verify and declare the major historical interest of records owned, possessed or held by private bodies and individuals and encourage their voluntary deposit in the National Archives;
- (n) make arrangements for the general and professional training of the staff of the National Archives in such manner as may be prescribed; and
- (o) establish links with national institutions devoted to similar objectives and co-operate in the organisation and operation of a national information system.

5. (1) There shall be appointed by the Minister by instrument in writing, from amongst persons appearing to the Minister to be qualified and experienced in matters relating to the identification, custody, preservation and exploitation of public archives and records, an Advisory Committee consisting of not less than nine nor more than twelve members who shall hold office for two years from the date of appointment.

(2) The Committee shall advise the Minister on matters of general archival policy and review the work and progress of the National Archives.

(3) The Archivist or his nominee shall be the Chairman of the Committee which shall meet half yearly.

(4) The Committee may regulate its own procedure.

(5) There shall be paid to the member of the Committee such remuneration, if any, (whether by way of travelling or other allowances) as the Minister may determine.

6. (1) There shall be an official seal of the National Archives of a design approved by the Minister.

(2) The seal of the National Archives shall be kept in the custody of the Archivist and may be used for the purposes of the National Archives.

(3) The official seal shall be judicially noticed.

Secrecy.

7. (1) Every person appointed or employed for the purpose of carrying out the provisions of this Act shall regard and deal with all public records which are secret or confidential or to which access may be restricted as secret.

(2) Every person who is appointed or employed for the purpose of carrying out the provisions of this Act shall make and subscribe before a magistrate a declaration of secrecy in the prescribed form.

(3) Any person who in contravention of the declaration of secrecy made by him under subsection (2) discloses to any unauthorised person any information contained in any public record referred to in subsection (1) or permits any unauthorised person to have access to any such record shall be liable on summary conviction to a fine of one thousand dollars.

Records in the custody of the Archivist before the commencement of this Act.

8. All records in the custody of the Archivist immediately before the commencement of this Act shall on the commencement of this Act stand transferred to the National Archives.

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

9. (1) The Archivist or any authorised officer may examine public records which have not been transferred to the National Archives and select those which in his opinion should be preserved and transferred thereto.

(2) The Archivist or any authorised officer shall not, without the permission of the relevant permanent secretary or the relevant head of any public office, as the case may be, examine any public records when such records are classified as secret or confidential.

(3) Every person responsible for having the custody of public records which have not been transferred to the National Archives shall —

- (a) afford the Archivist or any authorised officer appropriate facilities for examination and selection under subsection (1); and
- (b) provide for safekeeping in accordance with any regulations made under this Act or the directions of the Archivist, of such public records as are selected for deposit and preservation in the National Archives pending their transfer to and deposit therein.

(4) Public records selected under subsection (1) shall be transferred to the National Archives:

Provided that with the approval of the Minister, the transfer may be withheld for the time being if in the opinion of the person having the custody thereof the said records are required for administrative purposes or ought to be detained for any other special reason and appropriate provision will be made for the preservation of such records.

(5) In this section and section 10 “relevant permanent secretary” and “relevant head of public office” mean the permanent secretary or head of public office having supervision over the Ministry, department or public office in charge of the public record dealt with.

10. (1) Subject to subsection (2), no person shall destroy or otherwise dispose of, or authorise the destruction of or other disposal of, any public records in his custody except with the written permission of the Archivist. Destruction of public archives and public records.

(2) If it appears to the Archivist that any public archives or public records selected for preservation are duplicated or no longer need be preserved, the Archivist shall authorise the destruction of such archives or records or dispose of them in any other way:

Provided that nothing in this section shall authorise the destruction of any records obtained by gift, during the lifetime of the donor without his consent.

(3) The Archivist may authorise the immediate destruction or the destruction after the expiration of such specified period as may be agreed upon by the Archivist and the relevant permanent secretary or relevant head of public office of any public records that —

- (a) by reason of their number, kind or routine nature do not in his opinion possess any enduring or historical value for preservation as public archives; and
- (b) are not required for reference after action is completed or after the expiration of such period of years from the date on which action on them is completed as may be agreed upon between the Archivist and such permanent secretary or head of public office.

(4) Any person who destroys or otherwise disposes or authorises the disposal of any public archives or public records in contravention of this section shall be liable on summary conviction to a fine of one thousand dollars.

Inspection
of public
archives.

11. (1) Public archives may be made available for inspection by all persons thirty years after the conclusion of the matter to which they refer, with the exception of —

- (a) judicial records in criminal proceedings which may be made available fifty years after the conclusion of the trial;
- (b) records concerning the private lives of individuals which may be made available fifty years after the death of the individuals;
- (c) public records from the Ministries of Foreign Affairs and Defence which shall be subject to the special provisions of section 12.

(2) Notwithstanding the provisions of subsection (1), the Archivist or any authorised officer may issue special permission authorising the consultation for research purposes of certain classes of public archives other than those referred to in paragraph (c) of that subsection, before the expiration of the periods specified in that subsection.

(3) The Archivist shall provide reasonable facilities at such time, place and on the payment of such fees as may be prescribed for the public to inspect public archives or obtain copies thereof or extracts therefrom:

Provided that no fee shall be charged for the inspection of public archives for research purposes.

(4) No person, not being an officer of the National Archives, shall remove any public archives from any prescribed place of inspection.

(5) Any person who contravenes subsection (4) shall be liable on summary conviction to a fine of one thousand dollars.

12. (1) Every person shall treat the records of the Ministries of Foreign Affairs and Defence deposited in the National Archives with due deference to the confidentiality of the work of those Ministries. Records of the Ministries of Foreign Affairs and Defence

(2) Records referred to in subsection (1) may be made available for inspection by all persons fifty years after the conclusion of the matter to which they refer:

Provided that, notwithstanding the expiration of that period, the Archivist may, having regard to the confidentiality of the work of the Ministries of Foreign Affairs and Defence and to the matter to which any such record refers, from time to time refuse access by any person to any such record.

(3) Notwithstanding the provisions of subsection (2) —

- (a) the permanent secretary of the Ministry of Foreign Affairs, in relation to the records of that Ministry referred to in subsection (1); or
- (b) the permanent secretary of the Ministry of Defence, in relation to the records of that Ministry referred to in subsection (1);

may authorise access by persons who in his opinion are **bona fide** research workers to such records before the expiration of the period of fifty years specified in subsection (2), such right of access to be communicated to the Archivist by the permanent secretary giving it in a document signed by him and stipulating the records to which such access is authorised.

(4) The Ministries of Foreign Affairs and Defence shall in all cases send to the National Archives a copy of all their official publications.

13. (1) The Archivist may declare to be of major historical interest any record which is owned, held or possessed by any person. Declaration of historical records.

(2) Such declaration shall be by notice published in the Gazette or, by writing under his hand served on the person having the custody of the record, and such record shall not be exported from Guyana except under and in accordance with a permit issued by the Archivist under this section

(3) A permit issued under this section shall contain a description of the record sufficient to identify it and may contain such conditions as to the custody, use, preservation and return of the record as the Archivist deems fit

(4) Any person who —

(a) exports or attempts to export a record declared under subsection (1) to be of major historical interest from Guyana without a permit issued under this section; or

(b) fails to comply with any condition of such permit, shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months

(5) Any person aggrieved by a declaration under subsection (1) may appeal to the Minister against such declaration within twenty-eight days from the date of the publication of the notice in the Gazette or its service, as the case may be, and the decision of the Minister on such appeal shall be final.

Gifts,
bequests,
deposits

14. (1) The Archivist may, on behalf of the Government, receive gifts and bequests of records which are of major historical interest.

(2) Persons having custody of records of major historical interest may with the permission of the Archivist deposit them with the National Archives.

(3) Persons who have gifted or bequeathed to or deposited with the National Archives any records under this section shall have the right to consult them and to make copies of them free of charge.

(4) The Archivist may, on behalf of the Government, receive gifts made to the National Archives in cash or in kind and, subject to any directions given by the Minister, shall utilise those gifts for such purposes as may be specified by the donor.

Purchases

15. The Archivist may, on behalf of the Government, purchase records of major historical interest.

Special re-
quirements
concerning
deposits,
gifts be-
quests and
purchases of
records.

16. (1) Any donor, depositor, vendor or other person who donates, bequeaths, devises, deposits or sells records to or with the National Archives may reserve the right to obtain reproduction thereof without payment and to prohibit reproductions by any other person until fifty years have elapsed after their transfer to the National Archives of the whole or any portion of any such records which he regards as secret.

(2) The prohibition on reproduction shall not apply to any person designated by such donor, depositor, vendor or other person as is referred to in subsection (1) nor, where the records relate to property devolving on an heir or successor in title of such donor, depositor, vendor or other person, to such heir or successor in title. Such heir or successor in title may, in addition, make copies of such records without payment.

17. The Archivist shall, not later than the 30th June in each year, prepare and submit to the Minister a report on the activities of the National Archives during the last preceding calendar year. Report to be submitted to the Minister.

18. The Archivist shall be entitled to compile and publish for sale or cause to be compiled or published for sale specialised catalogues, publications of sources of a national character, monographs and research papers. The proceeds of such sales shall be paid into the Consolidated Fund. Compilation and sale of publications

19. (1) Copyright shall not be deemed infringed by the Archivist making or supplying to any person any copy or reproduction of any public archives made available for public inspection. Copyright

(2) The Archivist shall not be liable for infringement by third parties of literary property rights or analogous rights arising out of the use of the materials for display, inspection, research, reproduction or other purposes.

(3) Where any person desires to publish any work containing any passage from any public archives, he shall first obtain the permission of the Archivist and he shall in that publication acknowledge the source from which that passage is taken.

(4) Any person who contravenes subsection (3) shall be liable on summary conviction to a fine of one thousand dollars.

20. Where it is a requirement of the validity of any public record that it should be kept in or produced from legal custody, the validity of such record shall not be affected by its transfer to the National Archives. Legal validity of public records

21. A copy of or an extract from any record in the National Archives purporting to be certified as true and authentic by the Archivist or any authorised officer and authenticated by having impressed thereon the official seal of the National Archives shall be admissible in evidence if the original record would have been admissible in evidence in any proceedings. Authentication of copies

Regulations. 22. The Minister may make regulations generally for carrying out the provisions of this Act and without prejudice to the generality of the foregoing, regulations may provide for —

- (a) prescribing anything which is to be prescribed under this Act;
- (b) the admission of the public to the National Archives and the inspection by the public of the public archives therein;
- (c) the transfer of public records to the National Archives;
- (d) the responsibilities of persons having the custody of public records for their custody;
- (e) the conditions under which public archives may be reproduced or published or extracts made therefrom; and
- (f) the preservation, destruction and protection of public archives.

EXPLANATORY MEMORANDUM

This Bill seeks to establish a department of National Archives consisting of the Archivist and such other persons as may be requisite for the purpose of carrying out the functions of the department. It sets out the functions of the Archivist which include the direction and management of the National Archives and the preservation, description, classification and management of public archives.

The Bill also makes provision for the appointment of an Advisory Committee to advise the Minister on matters of general archival policy and to review the work and progress of the National Archives.

The Archivist may examine and select public records which ought to be transferred to the National Archives. The destruction of public records is permitted only with the written permission of the Archivist.

The Archivist may declare any record to be of major historical interest and such record shall not be exported from Guyana except under and in accordance with a permit issued by the Archivist. The Archivist may on behalf of the Government receive gifts of records of major historical interest or purchase them. Voluntary deposits of such records in the National Archives may also be permitted.

Public archives are made available for public inspection after the expiration of certain periods stated in the Bill. Facilities are to be provided to the public for their inspection and also for obtaining copies of or extracts from such archives. An authenticated copy of any record in the National Archives is admissible in evidence where the original would have been admissible in evidence.

Officers of the National Archives are required to make a declaration of secrecy before a magistrate and to treat as secret any public record which is secret and confidential. Violation of the declaration of secrecy is an offence under this Bill.

P. A. Reid,
Prime Minister.

(Bill No. 10/1982).

(MI: 9/3^{1D})