

PUBLIC RECORDS AND ARCHIVES ADMINISTRATION ACT, 1997 ACT 535

ARRANGEMENT OF SECTIONS

Functions of the Public Records Administration

1. Responsibility for public records.
2. Records advisory committee.
3. Meetings of the committee.
4. Allowances for members.
5. Functions of the advisory committee.

Responsibility for Records

6. Functions of the director.
7. Responsibility for current records.
8. Responsibility for semi-current records.
9. Responsibility for management of public records.
10. Responsibility of heads of public institutions.
11. Responsibility of regional office.
12. Responsibility of heads of regional and district institutions.

Access to Public Records

13. National archives and other repositories.
14. Fees for supply of records.
15. National register of archives.

15A. Retention of percentage of internally generated funds.

16. Thirty years rule.

17. Reckoning of time.

18. Legal validity.

19. Copyright.

Miscellaneous

20. Acquisition of non-public material.

21. Official publications.

22. Export of historical documents.

23. Wilful mutilation or destruction of public records.

24. Denial of access.

25. Regulations.

26. Interpretation.

27. Consequential amendment.

28. Repeal and savings.

ACT 535

PUBLIC RECORDS AND ARCHIVES ADMINISTRATION ACT, 19971(1)

AN ACT to provide for the proper administration and management of public records,
the

preservation of national archives and for related matters.

Functions of the Public Records Administration

1. Responsibility for public records

(1) The Public Records and Archives Administration Department established under the Public

Records and Archives Administration Department (Establishment) Instrument, 1996 (L.I. 1628) is

responsible for the proper and effective management of records in public institutions of government to

which this Act applies.

(2) For the purposes of subsection (1), the Department shall

(a) ensure that public offices, institutions and individuals who create and maintain public

records follow good record keeping practices;

(b) establish and implement procedures for the timely disposal of public records which do not

have a continuing value;

(c) advise on best practices and establish national standards in records keeping in the Public

Services;

(d) establish and implement procedures for the transfer of public records of permanent value for

preservation in the National Archives or any other archival repository as designated under

this Act; and

(e) perform any function conferred on the National Archives under any other enactment.

2. Records advisory committee

(1) There is hereby established a records advisory committee for the Department.

(2) The advisory committee consists of

(a) the director of the Department;

(b) one representative each from

(i) the Department of Library and Archival Studies, University of Ghana (Legon),

(ii) the Public Services Commission,

(iii) the Attorney-General's Department,

(iv) the Ministry of Finance,

(v) the Ghana Library Board,

(vi) the Ghana Academy of Arts and Sciences,

(vii) the Judicial Service, and

(viii) the Parliamentary Service;

(c) the head of the Civil Service, who shall be chairman;

(d) two other persons who are knowledgeable in the management of public records.

(3) The members of the advisory committee shall be appointed by the Civil Service Council.

3. Meetings of the committee

(1) The advisory committee shall meet at least twice a year and as often as it shall determine.

(2) The chairman shall preside at the meeting of the advisory committee and in the absence of the

chairman the members present shall elect one of their number to preside.

(3) The quorum of the meeting is one-third of the membership.

(4) Questions before the advisory committee shall be decided by a majority of the members present

and voting, and where there is an equality of votes the chairman shall have a casting vote.

(5) The advisory committee may co-opt any other person to attend a meeting of the committee, but a

co-opted person shall not vote on a matter for decision before the advisory committee.

(6) Except otherwise provided in this Act, the advisory committee shall regulate its own meetings.

4. Allowances for members

A member of the advisory committee shall be paid the allowances determined by the Civil Service

Council in consultation with the Minister responsible for Finance.

5. Functions of the advisory committee

The advisory committee shall advise the Civil Service Council on matters relating to the keeping of

public records and archives and perform any other functions directed by the Council.

Responsibility for Records

6. Functions of the director

(1) The director shall

(a) implement the general policies formulated by the Council,

(b) manage the day-to-day activities of the Department, and

(c) perform any other functions specifically assigned by law or by the Council.

(2) The director is responsible for the preservation of the public records of permanent value, other

than a record whose transfer has been deferred under section 9 (c) or held in a place of deposit under

section 13, and shall, in particular,

(a) take charge of the national archives and regional archival repositories;

(b) provide in the national archives, regional archival repositories and in any other archival

repository which the director may establish suitable conditions for the preservation of the

records and access for their consultation by the public;

(c) arrange and describe those records and provide appropriate guides, lists, indexes and aids to

facilitate access to them;

(d) arrange for reasonable facilities to be available to the public for inspecting and obtaining

copies of public records in the national archives or any other archival repository under the

control of the director, in so far as those records are open to inspection by the public under

this Act.

(3) The director may do any other things as appear necessary or expedient for maintaining the utility

of the national archives and any other archival repository under the control of the director and may,

(a) prepare and sell publications or objects related to the public records;

(b) prescribe administrative rules for admission of the public to the national archives or any

other archival repository under the control of the director;

(c) arrange exhibitions and lend public records for exhibitions subject to the conditions that the

director may specify, except that loans of public records outside the Republic may not be

made without the approval of the Council;

(d) arrange for the transfer of public records to the national archives or any other archival

repositories under the control of the director or to a place of deposit designated under section

13;

(e) dispose of public records in the national archives or any other archival repository under the

control of the director if it seems that they are not of permanent value, subject to the

agreement of the head of the public office in which they were created or its successor in

function and with the approval of the Council;

(f) accept non-public records for safekeeping and acquire non-public records by purchase, gift,

bequest or deposit; and

(g) enter into arrangements with other institutions for the joint management of conservation and

restoration facilities.2(2)

7. Responsibility for current records

The director is responsible for ensuring the management and keeping of current public records and

shall

(a) provide professional assistance, advice and guidance on the establishment and management

of a filing system;

(b) establish and ensure compliance with prescribed standards for the management of the

records;

(c) draw up general retention schedules for approval and issue by the Council;

(d) agree with heads of public offices on retention schedules relating to records specific to the

offices, which shall be used on the authority of the Council;

(e) ensure the implementation of retention schedules; and

(f) authorise the disposal of current records not provided for by retention schedules.

8. Responsibility for semi-current records

The director shall accept custody of semi-current records which have been scheduled for further

retention and maintain them within a records centre and shall

(a) return semi-current records temporarily in the custody of the director to the public office or

the other public office or the other public institution which created them or to its successor in

function for the purposes of current administration;

(b) implement retention schedules in respect of semi-current records in the custody of the

director;

(c) appraise and dispose of semi-current records in the custody of the director which are not

covered by retention schedules;

(d) arrange for the transfer of records of permanent value for the national archives or any other

archival repository under the control of the director or to a place of deposit provided under

section 13 not later than thirty years from their creation; and

(e) inspect and recommend to the advisory committee the suitability of premises in which it is

proposed that records whose transfer has been deferred under section 9 (c) should be stored.

9. Responsibility for management of public records

(1) The head of a public institution where public records are created and kept, shall establish good

records keeping practices within the registry for the management of public records in accordance with

standards directed by the Department.

(2) The standards shall include

(a) the creation and management of current records within appropriate filing systems;

(b) the implementation of retention schedules;

(c) the transfer of semi-current records into the custody of the director except where the records

remains classified or secret on grounds of

(i) national security,

(ii) maintenance of public order,

(iii) safeguarding of revenue, or

(iv) the protection of personal privacy,

and the deferment of their transfer has been approved by the Regulations.

10. Responsibility of heads of public institutions

The head of a public office or any other public institution to which this Act applies shall at the request

in writing of the director manage semi-current records and shall for that purpose

(a) maintain the integrity of semi-current records returned temporarily under section 8 (a);

(b) approve access by third parties other than authorised personnel of the Department or of the

public office which created the records or its successor in function;

(c) maintain semi-current records the transfer of which have been deferred in conditions

comparable to those provided by the director in records centers under the control of the

director;

(d) implement retention schedules relating to semi-current records the transfer of which have

been deferred and transfer records of permanent value to the national archives or any other

designated place of deposit not later than thirty years from their creation unless a further

deferment of transfer for a specified period has been approved by the Regulations.

11. Responsibility of regional office

The head of a regional office of the Department is responsible for implementing in the Region the

general policies of the Council on records management and shall, in respect of public records created,

received and maintained in public offices and other institutions at regional level, perform the functions set

out in sections 7 and 8.

12. Responsibility of heads of regional and district institutions

(1) Officers in public institutions at regional or district level shall assist officers of the records class

stationed at the offices in the management of public records at the regional or district level.

(2) The head of a regional office is answerable to the director on professional matters relevant to the

function of the regional head under this Act.

(3) The records centre and archival repository established in a Region shall be under the control of the

director.

Access to Public Records

13. National archives and other repositories

(1) There shall be stored for preservation in the national archives under the Department the public

records of sufficient historical or any other value that justify their continued preservation by the Council.

(2) The director may, on the advice of the advisory committee and with the approval of the Council,

designate a place, other than the national archives or any other archival repository under the control of the

director, as a place of deposit for specified public records where the director is satisfied that

(a) the place provides suitable facilities for the preservation and safekeeping of public records of

permanent value, and access for their consultation by the public, and

(b) the place is adequately and independently funded.

(3) The director shall, before designating a place under subsection (2), inspect the proposed place of

deposit to determine its suitability.

(4) The director, on the advice of the advisory committee and with the approval of the Council, may

cancel the designation of a place as a place of deposit if

(a) suitable facilities are not maintained, or

(b) the place of deposit ceases to be adequately funded.

14. Fees for supply of records

(1) The director shall, on the advice of the advisory committee and with the approval of the Council,

determine fees payable for the supply of copies of records in the custody of the director, the certification

of copies and the provision of any other services by the staff of the Department.

(2) The moneys collected by the Department shall be paid into the Consolidated Fund.

15. National register of archives

The director shall keep a national register of archives in which shall be recorded the records in the

national archives and any other repository under the control of the director.

15A. Retention of percentage of internally generated funds

The Department may retain 50% out of the moneys realised in the performance of its functions.2a(3)

16. Thirty years rule

(1) Public records in the national archives and any other archival repository designated by the

director, shall be available for public inspection after the expiration of a period of thirty years from their

creation unless a longer or shorter period is prescribed by the Regulations.

(2) For the purpose of subsection (1), the Council shall obtain the advice of the head of the public

office which created the record or its successor in function.

(3) Public records to which members of the public normally have access before transfer into the

custody of the director or to a place of deposit under section 13, shall continue to be open to public

inspection irrespective of the age of the public records.

17. Reckoning of time

(1) A period of time specified by this Act in respect of records shall run from the first day of January

in the next year after the year in which the records were created.

(2) Where records created on different dates are for administrative purposes kept together in one file

or otherwise assembled, the records on that file or assembly shall be treated for the purposes of this Act as

having been created when the latest of those records was created.

18. Legal validity

(1) The legal validity of a public record shall not be affected by its removal into the custody of the

director or to a place of deposit designated under section 13.

(2) A copy of or an extract from a public record in the custody of the director, examined and certified

as a true and authentic copy or extract by an officer authorised by the director and bearing the seal of the

Department is admissible as evidence in any proceedings without further proof, if the original record

would have been admissible as evidence in the proceedings.

19. Copyright

(1) The supply of copies of records by the director does not involve the transfer of a copyright in the

records to the recipient, and accordingly, the director, in making available for inspection or providing

copies of records in the custody of the director is not liable for breach of a copyright law.

(2) A person shall not make publication of facsimile copies, verbatim transcripts or literal translations

of records in the custody of the director in which copyright subsists in the Republic except with the

consent of the author and the director.

Miscellaneous

20. Acquisition of non-public material

(1) Subject to the approval of the Council, the director may acquire a copy of a private recording

which is of permanent value for preservation in the national archives.

(2) The Council may authorise the director to establish a register of private records and archives in the

Republic.

21. Official publications

A public officer shall submit to the director two copies of an official publication issued by that officer

as prescribed by the Regulations.

22. Export of historical documents

(1) A person shall not export a public record which relates to the Republic and which is in the opinion

of the advisory committee, of historical value.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction

to a fine not exceeding two hundred and fifty penalty units or as may be determined by the value of the

records, and the Court, shall order the return of the records involved in the commission of the offence and

where that person fails to return the records that person is liable to a term of imprisonment not exceeding

one year or to a fine not exceeding two hundred and fifty penalty units or both the fine and the

imprisonment.

23. Wilful mutilation or destruction of public records

A person who wilfully mutilates a public record in

(a) a public office,

(b) the national archives,

(c) an archival repository under the control of the director, or

(d) a place of deposit designated under section 13,

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty

units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

24. Denial of access

A person who without reasonable cause, denies access to a public record to an official of the

Department commits an offence and is liable on summary conviction to a fine not exceeding two hundred

penalty units or to a term of imprisonment not exceeding six months or to both the fine and the

imprisonment.

25. Regulations

The Council in consultation with the Public Services Commission may, by legislative instrument,

make Regulations to provide for

(a) the purposes of the creation, receiving and maintenance of public records by a designated

body or individual;

(b) a further responsibility of public officers for the custody of public records; and

(c) the effective implementation of the objectives of this Act.

26. Interpretation

In this Act, unless the context otherwise requires,

“advisory committee” means the records advisory committee established by section 2;

“archival repository” means a building or part of a building in which archives are reserved and

made available for consultation;

“archives” means records of permanent value selected for preservation in an archival institution;

“Council” means the Civil Service Council;

“current records” means records regularly used for the conduct of the current business of an

institution or individual and which continue to be maintained in their place of origin;

“Department” means the Public Records and Archives Administration Department established

under L.I. 1628;

“export” means export from the Republic;

“national archives” means the archival repository in which archives of the institutions of the

Republic are preserved and made available for consultation;

“public records” means,

(a) records that belong to the Republic created, received and maintained

(i) by a public office, by a Minister or any other person responsible for a public office or

by any other officer or employee of a public office;

(ii) by a Court with jurisdiction within the Republic or by a Justice or other officer of that

Court;

(iii) by any other body or individual so designated by the Regulations;

(b) the public archives within the meaning of the Public Archives Ordinance, 1955 (No. 35) in

the custody of the National Archives of Ghana on the date of coming into force of this Act;

“recording” means anything on which sounds or images or both are fixed regardless of form;

“records” means recorded information regardless of form or medium created, received and

maintained by an institution or individual in the pursuance of its legal obligations or the legal

obligations of the individual or in the transaction of its business or the business of the individual;

“records centre” means a building specially designed and constructed or converted for the storage,

maintenance and use of semi-current records pending their ultimate disposal;

“Region” means a region of the Republic;

“Regulations” means the Regulations made under this Act;

“retention schedule” means a document describing the recurring records of an institution or an

administrative unit of the institution, specifying those records to be preserved as having permanent

value as archives and authorising on a continuing basis and after the lapse of specified retention

periods or the occurrence of specified actions or events, the disposal by destruction or other means of

the remaining records;

“semi-current records” means records required only for the conduct of current business, and for

the purposes of this act, files and other assemblies on which an action has not been recorded for five

years shall be regarded as semi-current records.

27. Consequential amendment

Spent.3(4)

28. Repeal and savings

Spent.4(5)

Endnotes

1 (Popup - Footnote)

1. The Act was enacted as the Public Records and Archives Administration Act, 1997 (Act 535) and was

assented to on 29th August, 1997, and notified in the Gazette on 5th September, 1997.

2 (Popup - Footnote)

2.

The former section 14 of the Act has been transferred to section 6 as subsections (2) and (3).

3 (Popup - Footnote)

2a. Section 15A added by section 2 of and the First Schedule to, the Ministries, Departments and Agencies

(Retention of Funds) Act, 2007 (Act 735).

4 (Popup - Footnote)

3. The section provided that,

“The Public Records Administration Department (Establishment) Instrument, 1996 (L.I. 1628) is amended by the

insertion of “and Archives” after the word “Records” wherever it appears in the Instrument.”

5 (Popup - Footnote)

4.

The section provided that,

“(1) The Public Archives Ordinance, 1955 (No. 35) is repealed.

(2)

Notwithstanding the repeal of the enactment specified in subsection (1) of this section—

(a) any statutory instrument made under it and in force immediately before the coming into force

of this Act shall until altered, revoked or modified under this Act, continue in force as if made

under the corresponding provision of this Act with such modifications as may be necessary

having regard to the provision of this Act;

(b) any reference in any enactment to the National Archives of Ghana shall be construed as a

reference to the Department.

(3) For the avoidance of doubt, the person holding office as Director of National Archives and other

officers employed at the National Archives immediately before the coming into force of this Act, shall continue to

hold their respective offices within their Department until revoked or otherwise determined by the President in

accordance with article 195 of the Constitution.”