

THE NATIONAL ARCHIVES ORDINANCE, 1983

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THE SCHEDULE

¹THE NATIONAL ARCHIVES ORDINANCE, 1983

ORDINANCE NO. XXXIX OF 1983

[18th August, 1983]

An Ordinance to provide for the establishment of National Archives for the collection, preservation, maintenance and administration of permanent records and archives of the Government.

WHEREAS it is expedient to provide for the establishment of National Archives for the collection, preservation, maintenance and administration of permanent records and archives of the Government and for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:-

1. This Ordinance may be called the National Archives Ordinance, 1983. Short title

2. In this Ordinance, unless there is anything repugnant in the subject or context,- Definitions

- (a) "Advisory Council" means the National Archives Advisory Council constituted under this Ordinance;
- (b) "Director" means the Director of National Archives;
- (c) "manuscript" means any hand written document made of paper, copper, silver, gold or other material except granite;
- (d) "National Archives" means the National Archives established under this Ordinance and includes any other depository designated as such by the Government;
- (e) "public archives" means all public records and any other manuscript, document or printed matter kept or deposited at the National Archives for permanent preservation;

¹ The Ordinance was declared void by the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal No. 48 of 2011 and subsequently the Ordinance has been made effective as an Act of Parliament by section 4 and Schedule of ১৯৮২ সনের ২৪ মার্চ হইতে ১৯৮৬ সালের ১১ নভেম্বর তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৭ নং আইন)।

- (f) “public office” means any office specified in the Schedule;
- (g) “public record” or “record” means any original or copy of any manuscript, paper, letter, register, report, book, magazine, map, chart, plan, drawing, picture, photograph or any other record or part thereof either hand-written, drawn, printed or produced in any other way on paper or on any other material except granite and officially received or produced or prepared in any public office in the course of its official functions and includes any cinematograph, film, recording, tape, disc or production in any other media received in any public office;
- (h) “printed matter” means any book, magazine, leaflet, newspaper, or any other paper containing information printed by any mechanical or by any other process;
- (i) “responsible officer”, with reference to any public office, means the head of that office or the officer for the time being discharging the duties and functions of the head of that office.

Establishment
of the National
Archives

3. As soon as may be after the coming into force of this Ordinance, the Government shall, by notification in the *official Gazette*, establish a central repository to be called the National Archives.

Advisory
Council

4. (1) The Government shall constitute an Advisory Council for the National Archives to be called the National Archives Advisory Council.

(2) The Advisory Council shall consist of the following members, namely:-

- (a) the Secretary, Sports and Culture Division, *ex-officio*, who shall also be its Chairman;
- (b) seven representatives, one each from the Cabinet Division, Law and Parliamentary Affairs Division, Sports and Culture Division, Ministry of Establishment and Reorganisation, Ministry of Home Affairs, Ministry of Foreign Affairs and Ministry of Education, to be nominated by the respective Division or Ministry;
- (c) four representatives, one each from the History Departments of the Universities of Dhaka, Chittagong, Rajshahi and Jahangirnagar, to be nominated by the Vice-Chancellor of the respective University; and
- (d) the Director, *ex-officio*, who shall also be its Member-Secretary.

(3) Every member of the Advisory Council, other than an *ex-officio* member, shall, unless earlier replaced by the nominating body, hold office for a period of three years from the date of his nomination and shall be eligible for re-nomination.

5. (1) The meetings of the Advisory Council shall be held at such times and places as may be determined by the Chairman:

Meetings of the
Advisory
Council

Provided that a meeting of the Advisory Council shall be summoned once at least in each period of three months or whenever the Council is required so to do by the Government.

(2) The Director shall, with the concurrence of the Chairman, convene meetings of the Advisory Council and be responsible for the maintenance of records and documents of the Advisory Council and shall perform other ancillary functions.

(3) To constitute a quorum at a meeting of the Advisory Council, not less than one-third of the total number of members shall be present.

(4) All meetings of the Advisory Council shall be presided over by the Chairman or, in his absence, by a member elected for the purpose by the members present.

(5) All questions at a meeting of the Advisory Council shall be decided by a majority of the members present and voting, and, in the case of equality of votes, the person presiding shall have a second or casting vote.

(6) No act or proceedings of the meetings of the Advisory Council shall be invalid merely on the ground of any existence of a vacancy in, or defect in the constitution of, the Advisory Council.

6. The functions of the Advisory Council shall be to advise the Government on all matters relating to the-

Functions of the
Advisory
Council

- (a) location, preservation and use of public archives;
- (b) custody and transfer of public records;

- (c) inspection and preservation of documents and manuscripts of historical or cultural or literary value in private possession;
- (d) inspection by members of the public archives;
- (e) editing and publishing of public archives and private manuscripts.

Appointment of Director

7. There shall be a Director who shall be appointed by the Government on such terms and conditions as the Government may determine.

Powers and duties of the Director

8. (1) Subject to the direction and control of the Government, the Director shall have charge of the National Archives and of the public archives deposited therein and, in addition to the specific functions conferred or imposed on him by this Ordinance, he shall take all such measures as are necessary for the conservation of public archives.

(2) Subject to the provisions of this Ordinance and any rules made thereunder, the Director or any other officer of the National Archives authorised by him in writing in this behalf shall have the following powers or any other power conferred on him by the Government or the Advisory Council, as the case may be-

- (a) make available and publish lists, indices, guides, inventories, calendars, texts, translation and such other things as may be necessary as aids to the public archives in his custody;
- (b) subject such terms and conditions, if any, on which any records or manuscripts are transferred to, or acquired by, the National Archives, produce, edit, print or make any other public use of any public archives in his custody;
- (c) provide for the restoration and conservation of public archives in a suitable manner and make photographic reproductions or duplicate copies of any public archives where necessary;
- (d) produce or cause to be produced for inspection by an individual, any public archives open to public inspection;
- (e) acquire by purchase, donation, bequest, contract, or otherwise or take on loan, any record, manuscript or document or any other material which, in his opinion, should be deposited in the National Archives for permanent preservation;

- (f) examine any record or any other manuscript or document containing reference to Bangladesh or which had its origin in Bangladesh but lying outside Bangladesh, with a view to securing either on loan or by purchase, the original or any copy thereof;
- (g) examine any collection of records of printed material in private possession for purposes of listing and recording and render such technical aid or assistance as may be necessary for the conservation and preservation of such records or printed materials; and
- (h) hold public exhibitions or expositions of any class or description of public archives, private documents, manuscripts or printed materials deposited in the National Archives, either in the premises of the National Archives or elsewhere.

(3) The Director may in writing delegate any of his powers and functions under this Ordinance to any officer of the National Archives.

9. (1) The Director shall have access to any place of deposit of public records and shall have the power to examine such records with a view to listing or collecting information therefrom or to taking such steps as are necessary for their transfer to the National Archives for permanent preservation.

Selection and transfer of public records to the National Archives

(2) It shall be the duty of the responsible officer of any public office or any other person for the time being having custody of any public records-

- (a) to afford the Director or any other officer authorised by him in writing all facilities for the examination and selection of such public records for permanent preservation and for the transfer of such records to the National Archives;
- (b) to keep in safe custody in such office any class or description of public records selected by the Director or by such other officer pending the transfer of such records to the National Archives;
- (c) to perform such duties in connection with selection and listing of such public records in his custody for transfer to the National Archives as may be required by the Director; and

- (d) to transfer such records, being records not less than twenty-five years old, as are required by the Director to be transferred to the National Archives for permanent preservation:

Provided that the transfer of any public records to the National Archives may be temporarily deferred and such records retained in the office of origin for administrative or other purposes for such period as may be agreed upon by the responsible officer of such office and the Director, and in every such case a list of records so retained shall be transferred to the Director by the responsible officer:

Provided further that the responsible officer transferring any public records which he may consider to be of a confidential or secret nature or which contain any other information which should not be divulged to the public may specify conditions subject to which such records shall be kept in the National Archives or shall be made available for public inspection, and it shall be the duty of the Director to comply with such conditions.

Destruction of records

10. The Director may authorise destruction of any specified classes of public records which-

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

Access of public to public records

11. (1) Subject to the conditions under which any public records are made available or are deposited in the National Archives, public archives shall be made available to the public for the purpose of reference or research which are of more than thirty years old.

(2) All applications for the inspection of records shall be addressed to the Director.

12. Where any public office is due to be closed down or wound up, the responsible officer of such public office shall transfer to the Director a complete list of all public records in that office and shall make arrangements to deposit in the National Archives such records as the Director may select or require for permanent preservation in the National Archives.

Procedure relating to documents where public office is to be closed down

13. It shall be the duty of the Secretary of any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1956 (VI of 1956), or any Committee of Inquiry appointed by the Government to deposit all records relating to such Commission or Committee, as the case may be, at the National Archives within three months of the rendering of the final report of such Commission or Committee.

Records of Commissions

14. (1) Any private individual or the chief executive officer of any institution in possession of any manuscript or document over seventy-five years old, being a manuscript or document of historical, cultural or literary value, may notify the Director of the existence of such document or manuscript.

Documents and manuscripts in private possession

(2) Such individual or executive officer shall, afford the Director all facilities to inspect such manuscript or document.

(3) Such individual or executive officer shall, if agreed upon by the Director, deposit at the National Archives such manuscript or document either on a permanent or temporary basis and may specify the conditions subject to which such manuscript or document shall be made available for public inspection or extracts or copies therefrom shall be taken for publication or for any other purpose.

15. (1) No person shall, except on the authority of a written permission issued in that behalf by the Director, export out of Bangladesh any public record, document or manuscript or any other printed matter, being a public record, document, manuscript or printed matter which is over seventy-five years old and which is of historical or cultural or literary value.

Prohibition of export of certain documents and manuscripts from Bangladesh

(2) The Director may refuse to issue a written permission if he considers that such record, document or manuscript is of such historical, cultural or literary value that its export will not be in the national interest.

(3) Any person aggrieved by the refusal of the Director to issue any written permit under this provision may appeal against such refusal to the Government within fourteen days of the communication of such refusal and the decision of the Government thereon shall be final and conclusive.

Official seal

16. (1) There shall be an official seal of the National Archives of a design approved by the Government and such seal shall be judicially noticed.

(2) The seal of the National Archives shall be kept in the custody of the Director and may be used by him or any officer authorised by him in that behalf for the purpose of National Archives.

Authentication of copies and extracts

17. A copy of, or an extract from, any public archives or any private document or manuscript deposited in the National Archives purporting to be duly certified as true and authenticated by the Director or any other officer authorised by him in writing for the purpose and having impressed thereon the official seal of the National Archives, shall be admissible in evidence in any proceeding in any Court in like manner and to the like extent as the original document or manuscript would have been admissible.

Deposit in the National Archives of public and private records received for permanent preservation

18. All public and private records received for permanent preservation by the Director shall be deposited in the repositories of the National Archives.

Temporary transfer of records from National Archives

19. Subject to the provisions of this section, no public archives shall be removed from the National Archives to any other place for any purposes whatsoever:

Provided that where any public office which has transferred to the National Archives any record, document, manuscript or other thing requires the same for inspection, such record, manuscript, document or thing may be forwarded to such office by the Director for inspection and that office shall return the same within such period as may be specified by the Director.

20. The Chairman shall submit an annual report on the activities of the Advisory Council to the Government and the Government, after examining the report, may issue such order or direction as it deems fit.

Annual report

21. Any person who knowingly defaces, marks on, mutilates or causes damage to any record, manuscript or document deposited in the National Archives or who destroys any public record otherwise than in accordance with the provisions of this Ordinance or any rules made thereunder or who contravenes any provision of this Ordinance or any rules made thereunder shall be punishable with simple imprisonment for a term which may extend to fifteen days, or with fine which may extend to five hundred Taka, or with both.

Penalties

22. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) selection of public records and private document and manuscripts for permanent preservation, their transfer to and deposit in the National Archives and the measures to be taken for their effective preservation in the National Archives;
- (b) temporary deposit of any specified class or description of public records at places other than the National Archives pending their transfer to the National Archives;
- (c) care and custody of public records in Government Departments and other institutions;
- (d) public access to the public archives and the terms and conditions subject to which public archives of any specified class or description of public archives are open to inspection by the members of the public;
- (e) prohibition or restriction of the disclosure of information obtained by the public from public archives;
- (f) maintenance of secrecy by officers of the National Archives in respect of any class or description of public archives in respect of which secrecy is required to be maintained by or under any law;

- (g) purchase from private individuals or organisations of manuscripts, documents and other printed matter of historical or cultural or literary value for permanent preservation in the National Archives;
- (h) destruction of valueless records and documents in public offices and preparation of schedules therefore; and
- (i) holding of exhibitions and expositions of public archives.

THE SCHEDULE

PUBLIC OFFICE

[See section 2(f)]

1. President's Secretariat.
 2. Ministries, Divisions, Departments and Subordinate Offices under their control.
 3. The Supreme Court and all civil and criminal Courts and tribunals.
 4. Offices of the Defence Forces including Bangladesh Rifles and any Court set up under Defence Service Laws.
 5. Office of any Ambassador, High Commissioner or any other Diplomatic Representative of Bangladesh situated outside Bangladesh.
 6. Office of any local authority.
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