

## **CHAPTER 35**

### **THE ARCHIVES AND RECORDS ACT**

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## ARCHIVES AND RECORDS

*(1st November, 1983.)*

14/1982.

1. This Act may be cited as the Archives and Records Act. **Short title.**
2. In this Act, unless the context otherwise requires — **Interpretation.**
- "Archivist" means the Archivist appointed under section 4;
- "Government department" includes any office or any other body or establishment whatsoever existing by virtue of the Constitution or being under the Government of Antigua and Barbuda;
- "Minister" means the Minister responsible for Archives;
- "non-public records" means all records, Archives, documents and other historical matter of every kind, nature or description other than public records;
- "public records" means **all** records, archives, documents and other historical matter of every kind, nature and description which are in the custody of any Government department, any Statutory Authority or any Government appointed body or which may, after the commencement of this Act, be transferred by such department, Authority or body to the Archives and Records Office;
- "records" includes both public and non-public records.
3. The Minister shall be generally responsible for the execution of this Act and shall supervise the care and preservation of the Archives and records in Antigua and Barbuda. **General responsibility of Minister for public records.**
4. (1) There shall be established an office to be called the Archives and Records Office with such branches as may be deemed necessary or convenient, in which shall be **Establishment of Archives and Records Office and appointment of Archivist.**

preserved such public or non-public records of historical values as are transferred thereto under section 6 or acquired by the Archivist under section 7.

(2) There shall be an Archivist, who shall be a public officer and who, under the direction of the Minister, shall be responsible for the custody, preservation, arrangement, repair and rehabilitation, and for such duplication and reproduction of records maintained at the Archives and Records Office as may be necessary or appropriate, including the preparation and publication of inventories, indexes, catalogues and other finding aids or guides facilitating the use of such records.

Examination of records and transfer of such records to the Archives and Records Office.

**5.** (1) The Archivist or any officer of the Archives and Records Office authorised by him shall have power to examine any records which are in the custody of any Government department, and shall advise such department as to the care, custody and control thereof:

Provided that nothing contained in this subsection shall empower the Archivist, or any other person authorised by him, to examine any records relating to matters which, by any other written law, are forbidden to be communicated to him.

(2) Records in the custody of any Government department shall be transferred periodically to the Archives and Records Office in accordance with regulations made under section 13.

Selection and preservation of public records.

**6.** (1) It shall be the duty of every person responsible for public records of any description which are not in the Archives and Records Office to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping.

(2) Every such person shall perform his duties under this section under the guidance of the Archivist and the Archivist shall be responsible for co-ordinating and supervising all action taken under this section.

(3) Public Records selected for permanent preservation under this section shall be transferred to the Archives and Records Office not later than twenty years after their creation:

Provided that any such records shall not be so transferred but may be retained after the said period if, in the opinion of the person who is responsible for them, they ought to be so retained for any special reason.

7. The Archivist, with the approval of the Minister, may by contract, testamentary bequest, or in any other manner acquire all such original non-public records, documents and other historical material or copies or replicas thereof as he may deem necessary or desirable to secure for the Archives and Records Office and he may pay for them or for the transcribing, binding and repairing thereof out of such funds as are voted by Parliament for that purpose.

Acquisition of records by Archivist.

8. (1) Public records in the Archives and Records Office shall not be available for public inspection until they have been in existence for thirty years or such other period, either longer or shorter, as the Minister may specify as respects any particular class of records.

Access to Archives and Records.

(2) Without prejudice to subsection (1), if it appears to the person responsible for any public records which have been selected by him under section 6 for permanent preservation that they contain information which was obtained from members of the public under such conditions that the opening of those records to the public after the period determined under subsection (1) would or might constitute a breach of good faith on the part of the Government of Antigua and Barbuda or on the part of the persons who obtain the information, he shall inform the Minister accordingly and those public records shall not be available in the Archives and Records Office for public inspection even after the expiration of the said period except in such circumstances and subject to such conditions, if any, as the Minister and that person may approve, or, if the Minister and that person think fit, after the expiration of such further period as they may approve.

(3) Non-public records, in the Archives and Records Office which have been acquired by the Archivist under sec-

tion 7 shall be available for public inspection one year after they have been acquired by the Archivist and have actually come into his possession:

Provided that where in any contract or testamentary bequest under which they have been acquired, it is stipulated that such non-public records shall not be available for public inspection for a specified period of time not exceeding twenty years after acquisition, then such non-public records shall not be available for public inspection until the specified period of time has elapsed.

(4) Subject to subsections (1), (2) and (3) or to any other written law (whether passed before or after the commencement of this Act) which prohibits the disclosure of information obtained from the public, and subject to any regulations made under section 13, it shall be the duty of the Archivist to arrange that reasonable facilities are available to the public for inspecting and obtaining copies of records in the Archives and Records Office.

(5) Notwithstanding anything contained in this section, it shall be lawful for the Archivist to permit a person to inspect—

(a) any public records if he has obtained special authority in that behalf given by a public officer of a Government department being an officer accepted by the Minister as qualified to give such authority; or

(b) any non-public records if he has obtained special authority from the person or legal representatives from whom they have been acquired.

Legal validity of records and authenticated copies.

**9.** (1) The legal validity of any record shall not be affected by its removal under the provisions of this Act with respect to its legal custody.

(2) A copy of or extract from a record in the Archives and Records Office purporting to be examined and certified as true and authentic by the Archivist or by an officer of the Archives and Records Office purporting to be authorised by him in that behalf and to be sealed or stamped with the seal of the Archives and Records Office shall be admissible as evidence in any proceedings without any further or other

proof thereof if the original record would have been admissible as evidence in those proceedings.

**10.** Where the person in charge of any Government department notifies the Archivist in writing that any public record which was transferred from that department to the Archives and Records Office is required for use in that department the Archivist shall return it to that person and such person shall return the public record to the Archivist as soon as it is no longer required by him for use.

**Return of public records to Government departments.**

**11.** (1) There shall be an Advisory Council on Archives and Records, which shall consist of—

**Appointment and functions of Advisory Council.**

(a) the Archivist; and

(b) such other persons, not exceeding five in number, as may be appointed by the Minister.

(2) The persons appointed under subsection (1)(b) shall hold office for such period and on such terms as may be determined at the time of their respective appointments.

(3) The Minister shall appoint the Archivist or one of the other members to be chairman of the Council.

(4) It shall be the duty of the Council to advise the Minister on all matters relating to records in general and, in particular, on those aspects of the work of the Archives and Records Office which affect members of the public who make use of the facilities provided by the Archives and Records Office.

**12.** (1) The exportation from Antigua and Barbuda of any records which relate to Antigua and Barbuda and which have been certified by the Archivist to be of historical value is prohibited except in accordance with the terms of an export licence issued by the Minister.

**Restriction on exportation of records.**

(2) A licence issued under the provisions of subsection (1) shall specify each record to which the licence relates and may contain such conditions as the Minister thinks fit.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

Power of  
Minister to make  
regulations.

**13.** The Minister may make regulations providing for—

(a) the admission of the public to the Archives and Records Office and the inspection by the public of the records;

(b) the transfer of any records from the custody of any Government department having control thereof to the Archives and Records Office;

(c) the examination, disposal or destruction of any public records which are not of sufficient value to justify their preservation in the Archives and Records Office or elsewhere;

(d) the fees to be paid in respect of services provided to the public by the Archives and Records Office, and

(e) generally for the better carrying out of the objects and purpose of this Act.

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