

GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

DEPARTMENT OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY
DEPARTEMENT VAN KUNS, KULTUUR, WETENSKAP EN TEGNOLOGIE

No. R. 1458

20 November 2002

NATIONAL ARCHIVES AND RECORD SERVICE OF SOUTH AFRICA ACT

(ACT NO. 43 OF 1996)

NATIONAL ARCHIVES AND RECORD SERVICE OF SOUTH AFRICA REGULATIONS

The Minister of Arts, Culture, Science and Technology, under section 18 read with sections 6(3), 6(6), 11(3), 12(4), 13(3) and 13(5) of the National Archives and Record Service of South Africa Act, 1996 (Act No. 43 of 1996),-

- (a) has made the regulations in the Schedule;
- (b) hereby repeals the Regulations published by Government Notice No. 126 of 24 January 1997.

SCHEDULE

PART I

DEFINITIONS

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates-

"chairperson" means the chairperson of the Council;

"committee" means a committee of the Council appointed in terms of section 6(5) of the Act;

"head of an archives repository" means the chief executive officer of an archives repository or the person who is acting as such;

"strongroom" means a room or place in an archives repository where records are stored; and

"the Act" means the National Archives and Record Service of South Africa Act, 1996 (Act No. 43 of 1996).

PART II

COUNCIL

2. (1) The Minister shall appoint members of the Council through a process of public nomination.

(2) (a) The Minister shall, by notice in the gazette and at least two newspapers circulating throughout the Republic, request nominations of suitably qualified persons.

(b) The notice referred to in paragraph (a) shall specify the qualifying requirements for the appointment, as well as the manner, place and time within which the nomination must be submitted -

(3) In appointing a member of the Council from the nominees, the Minister shall ensure that -

(a) the member has the necessary experience and that stakeholder interests are taken into account; and

(b) the Council reflects to a reasonable degree the demographic and gender realities of the Republic of South Africa.

3. (1) A term of office of a member of the Council shall be a period of three years.

(2) Any person whose term of office as a member of the Council has expired may be reappointed for one additional term.

(3) A person appointed in the place of a member who has vacated office, shall hold **office** for the unexpired term of office of the member in whose place he/she is appointed.

(4) **The term of office** contemplated in subregulation (3) shall not be considered as a **term of office for the** purposes of re-appointment under subregulation (2).

4. The Minister may remove a member of the Council from office if-

(1) the member is absent from two consecutive ordinary meetings of the Council without leave of such absence having been granted by the Council;

(2) such removal is requested by at least two thirds of the other members of the Council;

(3) The member is found to be of unsound mind by a competent court; or

(4) The member is found guilty of misconduct.

5. (1) The Minister shall appoint the chairperson and the Council shall elect from among its members a deputy chairperson

(2) The deputy chairperson shall perform all the functions of the chairperson in the absence of the chairperson.

(3) Whenever both the chairperson and the deputy chairperson are not available, the members must, from among themselves, elect a member to act as chairperson.

6. (1) Ordinary meetings of the Council shall be held at least twice a year.

(2) Special meetings of the Council shall be held -

- (a) by order of the Minister; or
- (b) on a written request signed by at least half of the members of the Council.

(3) The chairperson shall determine the venue, date and time of ordinary and special meetings.

(4) The secretary shall dispatch the agenda of an ordinary meeting of the Council at least six weeks prior to the date of the meeting to all members of the Council.

(5) The secretary shall dispatch the agenda of a special meeting of the Council at least two weeks prior to the date of such meeting.

(6) A quorum for a meeting of the Council shall be the majority of its members

(7) If there is no quorum at a meeting the meeting must be postponed for at least two weeks: The members at the second meeting shall form a quorum for that meeting.

(8) A decision of the majority of the members present at any meeting constitutes a decision of the Council and, in the event of an equality of votes, the presiding member shall have a casting vote in addition to his or her deliberative vote.

(9) No decision of Council shall be invalid merely by reason of a casual vacancy in the Council.

(10) The secretary shall record the minutes of every meeting of the Council, and shall circulate the draft minutes among members.

(11) Minutes of the proceedings of each meeting shall be submitted at the next meeting of the Council and, if passed as correct, shall be confirmed by the signatures of the chairperson and the secretary.

7. (1) A committee of the Council shall elect a chairperson and, if necessary, a secretary for that committee from among its members -

(2) The chairperson of a committee shall -

(a) determine the venue, date and time of a meeting of that committee;

(b) table minutes of any meeting held by that committee since the last meeting of the Council at the next ordinary meeting of the Council; and

(c) provide a written report of the activities of the committee at the Council meeting.

PART III
TRANSFER OF PUBLIC RECORDS

8. (1) The transfer of public records may take place on the initiative of either the National Archivist or the head of the governmental body under whose control those records fall.

(2) The National Archivist may enter into an agreement with the head of a governmental body for the planned and systematic transfer of public records.

(3) When a governmental body wishes to transfer public records, the head of such a body shall submit a written request to do so to the head of the archives repository concerned, subject to the following conditions :-

(a) Where such records are covered by a disposal authority, the request must include -

- (i) a duplicate transfer list of such records in which each item is identified by reference number, description and opening and closing dates; and
- (ii) an indication of the extent of such record in linear metres ;
and

(b) Where such records are not covered by a disposal authority, the request must include -

- (i) a summarised identification of such records by type, period and office of origin,
- (ii) an indication of the nature of the records classification system, whether such system has been approved by the National Archivist, and whether such system is still in use; and
- (iii) an indication of the extent of such records in linear metres.

(4) Subject to section 13(2)(a) of the Act a governmental body may transfer public records to an archives repository after receiving written authorization to do so from the head of such repository.

(5) In addition to any special-condition that may apply to any transfer -

- (a) the public records-concerned shall be deposited in the archives repository determined by the National Archivist; "
- (b) the public records concerned shall be ordered precisely in accordance with the transfer list contemplated in subregulation 3(a)(i)
- (c) containers or packages used for the transfer must be clearly labeled in the sequence determined by the transfer list; and
- (d) receipt of the transfer shall be acknowledged by the dispatch to the governmental body concerned of an endorsed copy of the transfer list.

(6) Subject to such conditions as the head of an archives repository may determine, public records in the custody of the National Archives may be returned temporarily to the governmental body which transferred them to the National Archives, or to such body's legal successor:- Provided that those records shall be returned to the archives repository concerned within 60 days of receipt, unless the head of that repository has authorised an extended period in writing.

(7) All costs relating to the transfer and temporary return of public records as provided for in this regulation shall be borne by the governmental body transferring the records to or borrowing the records from the National Archives.

PART IV ACCESS AND USE

9. (1) Consultation of records in an archives repository shall take place in the reading rooms of that repository.

(2) A member of the public may be admitted to the strongrooms of an archives repository with the approval of the head of such repository and subject to the conditions laid down by such head.

(3) A member of the public admitted to a strongroom or other place in an archives repository where records are stored or processed shall not eat, drink, smoke, strike a match or use a lighter in the strongroom or such place, and shall not carry any bag, receptacle or any other container into the strongroom or such place .

(4) The head of an archives repository may require a member of the public to -

- (a) present his or her identity document or passport;
- (b) record in the repository register referred to in subregulation 7(a):-
 - (i) the subject of his or her research;
 - (ii) the purpose of the research;
 - (iii) his or her permanent residential address;
 - (iv) such other information as the head of the archives repository may require;
- (c) notify the head of any subsequent changes to the information contemplated in paragraph (b).

(5) (a) The head of an archives repository may deny a member of public access to a reading room if such person does not comply with these regulations or persists with improper conduct.

(b) A denial of access referred to in paragraph (a) shall, as soon as possible, be reported in writing to the National Archivist.

(6) Reading rooms of archives repositories shall be open to the public at such times as the National Archivist may determine.

- (7) (a) A member of public shall write and sign his/her name in a register provided for the purpose every day on which records are consulted.
- (b) A member of public shall request the delivery of records to a reading room for consultation in writing using a form, following a procedure, and at times determined by the National Archivist.
- (c) The head of an archives repository shall determine the number of records which may be consulted simultaneously by a member of public.
- (d) When consulting records a member of public shall observe all instructions pertaining to the handling of records laid down by the head of an archives repository, including but not limited to the following:
- (i) The greatest care in handling records shall at all times be exercised;
 - (ii) The order of records shall not be disturbed;
 - (iii) Any damage to a record or disturbance in the order of records caused or discovered by a member of public shall be reported to the reading room supervisor;
 - (iv) Writing or making of any mark on any record is prohibited;
 - (v) The use of fountain pens is prohibited; and
 - (vi) No bags, receptacles or containers of any kind may be retained in a reading room.
- (8) (a) The head of an archives repository may prohibit the copying of a record if such copying might damage the record.
- (b) The head of an archives repository may:
- (i) limit the length of time for which a member of public may utilize a copying machine, computer terminal or other facility provided by that repository; and
 - (ii) provide members of the public with copies of records, provided that the head may impose a limit on the number of copies.
- (c) Members of the public shall pay for any copies of records made in an archives repository according to the tariffs determined by the National Archivist.

**PART V
MANAGEMENT AND CARE OF RECORDS**

10 (1) The head of a governmental body shall be responsible for ensuring that all records of such body

- (a) receive appropriate physical care,
- (b) are protected by appropriate security measures; and
- (c) are managed in terms of standing orders of that body and other relevant legislation.

(2) The head of a governmental body shall supply the National Archivist with such information related to the management of records under his/her control as the National Archivist may require.

(3) The head of a governmental body shall comply with all directives and instructions issued by the National Archivist and pertaining to the management and care of public records.

(4) The appraisal of the records of a governmental body may take place on the initiative of either the National Archivist or the head of the governmental body concerned.

(5) The transfer to an archives repository, destruction or other disposal of such records shall be effected in terms of a disposal authority.

(6) Procedures for the issuing of a disposal authority shall be as determined by the National Archivist in directives and instructions.

(7) The preparation of records for destruction in terms of a disposal authority shall be done under the supervision of the records manager of the governmental body concerned.

(8) Whenever records are destroyed in terms of a disposal authority, the head of a governmental body shall submit to the National Archivist a certificate of destruction as prescribed by the National Archivist unless an exemption from this obligation has been received from the National Archivist.

(9) The head of a governmental body shall report to the National Archivist without delay all cases of serious damage, loss or unauthorized destruction of that body's records.

11. (1) No governmental body shall use a records classification system unless it has been approved by the National Archivist.

(2) Any application for the approval of a records classification system shall follow procedures determined by the National Archivist.

(3) Any revision of and additions to an approved records classification system shall be submitted to the National Archivist for approval in accordance with procedures set out by the National Archivist.

(4) The head of a governmental body shall report to the National Archivist such body's intention to microfilm records or to introduce an electronic records system and such notification shall follow procedures set out by the National Archivist.

12. The official designated as the records manager of a governmental body in terms of section 13(5) of the Act shall -

(a) be in possession of an appropriate university or technikón qualification, and/or have appropriate professional experience;

(b) have successfully completed the National Archives' Records Management Course;

(c) possess a thorough knowledge of the body's organizational structure, functions and records system; and

(d) be responsible for promoting the effective, efficient and accountable management of the body's records and ensuring, by inspections and other means, the body's compliance with the Act and all other relevant legislation.

TITLE

13. These regulations shall be called the National the National Archives and -Record Service of South Africa Regulations, 2002