



ANALYSIS

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1957, No. 13

An Act to provide for the custody and preservation of the public archives of New Zealand [4 October 1957]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Archives Act 1957.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Chief Archivist” means the Chief Archivist appointed under this Act:

“Government office” means any department, office, corporation, agency, or instrument of any kind of the legislative or executive or judicial Government of New Zealand; and includes any office or corporation or other body declared by the Governor-General, by Order in Council, to be a Government office for the purposes of this Act:

“Minister” means the Minister of Internal Affairs:

“National Archives” means the National Archives established under this Act:

“Public archives” means all public records that have ceased to be in current use in the Government office in which they were originally made or received or in the Government office in whose custody they have been placed, or that have been deposited in the National Archives:

“Public records” means all papers, documents, or records of any kind whatsoever officially made or received by any Government office in the conduct of its affairs or by any employee of the Crown in the course of his official duties; and, without limiting the generality of the foregoing provisions of this definition, includes registers, books, maps, plans, drawings, photographs, cinematograph films, and sound recordings so made or received; and also includes copies of public records.

3. Application of Act—Nothing in this Act shall apply with respect to—

(a) Any public record made or received by the Inland Revenue Department for the purposes of any of the Inland Revenue Acts as defined by the Inland Revenue Department Act 1952, if that record discloses any information relating to the affairs of any particular person:

(b) Any public record made or received by the Department of Statistics, if that record discloses any information which is required to be kept secret pursuant to the provisions of section eighteen of the Statistics Act 1955:

- (c) Any public record made or received by the Public Trustee, if that record contains any information relating to any particular estate as defined in the Public Trust Office Act 1908 or to the will of any particular person or to the affairs of any particular person for whom the Public Trustee may act in any capacity:
- (d) Any public record made or received by the Maori Trustee, if that record contains any information relating to any particular estate or trust or agency or to the will of any particular person or to the affairs of any particular person for whom the Maori Trustee may act in any capacity:
- (e) Any public record made or received by the Post and Telegraph Department, if that record is a telegram as defined in the Post and Telegraph Act 1928 or contains any information relating to the account of any particular person in the Post Office Savings Bank or to any particular National Savings account:
- (f) Any ballot papers and other documents transmitted to the Clerk of the House of Representatives under the provisions of section one hundred and twenty-one of the Electoral Act 1956:
- (g) Any public record made or received by the Department of Industries and Commerce, if that record contains any information that is required to be treated as confidential by section sixteen of the Standards Act 1941 or by section thirteen of the Industries and Commerce Act 1956 or required to be kept secret by section eight of the Control of Prices Act 1947.

Administration

4. Administration of Act—Subject to the control of the Minister, the Secretary for Internal Affairs shall be charged with the general administration of this Act.

5. National Archives—There is hereby established a repository to be known as the National Archives, in which such public archives as are considered worth permanent preservation shall, in the manner prescribed by this Act, be deposited and preserved.

6. Chief Archivist—There shall from time to time be appointed under the provisions of the Public Service Act 1912 a Chief Archivist, who shall be an employee of the Department of Internal Affairs and, under the general direction of the Secretary for Internal Affairs, shall be charged with the custody, care, control, and administration of all public archives deposited in the National Archives and the performance of any other duties prescribed by this Act.

7. Delegation of Chief Archivist's powers—(1) The Chief Archivist may from time to time delegate in writing any of his powers under this Act, except the power of authorising the destruction or disposal of public archives.

(2) Subject to any general or special directions given or conditions attached by the Chief Archivist, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class or may be made to the holder or holders for the time being of a specified office or specified classes of offices.

(5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Chief Archivist.

(6) Every delegation under this section shall, until it is revoked, continue in force according to its tenor, notwithstanding the fact that the Chief Archivist by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

Custody and Preservation of Archives

8. Deposit of public archives in National Archives—

(1) All public archives of the age of twenty-five years or over (other than those which under any Act are required to be held in the custody of a specified person or Government office) which in the opinion of the Chief Archivist are of sufficient value to warrant their preservation as—

(a) Evidence of the organisation, functions, and transactions of the Government office in which they were originally made or received; or

(b) Evidence of public or private personal or property rights or civic rights; or
(c) Containing historical or general information—
shall be transferred to the custody of the Chief Archivist and be deposited in the National Archives.

(2) Notwithstanding anything in subsection one of this section,—

(a) Where the Chief Archivist is satisfied that the deposit in the National Archives of any particular public archive of the age of twenty-five years or over would unduly prejudice the effective administration of any Government office, he shall defer the deposit of that archive for such period as may be agreed upon between the Chief Archivist and the administrative head of the Government office affected:

(b) Where any public archive is required by any enactment to be kept secret or confidential, or where the administrative head of the Government office having the possession or control of any public archive satisfies the Chief Archivist that by reason of its secret or confidential nature it would not be in the public interest immediately to deposit that archive in the National Archives, the Chief Archivist shall from time to time defer the deposit of that public archive for such period as may be agreed upon between that administrative head and the Chief Archivist:

(c) Where the Minister in charge of any Government office certifies that in his opinion any specified public archive or specified class of public archives in the custody or control of that Government office contains information the release of which may adversely affect the national security of New Zealand or relations between the Government of New Zealand and the Government of any other country, the deposit in the National Archives of that public archive or of public archives of that class shall be deferred for such period or shall be made subject to such conditions as to access or otherwise as that Minister from time to time directs:

(d) Where the deposit of any public archives in the National Archives is deferred as aforesaid, the Chief Archivist may prescribe any conditions he thinks fit to ensure the safe preservation of any such archives during the time they are kept in a Government office.

(3) Any public archives deposited under subsection one of this section may be deposited unconditionally or, if the administrative head of the Government office making the deposit so requires, shall be deposited subject to such conditions as to access and otherwise as may be agreed upon from time to time by the Chief Archivist and the administrative head of that office.

(4) Where the administrative head of any Government office and the Chief Archivist are unable to agree as to whether or not the deposit of any public archives in the National Archives should be deferred or as to the period for which that deposit should be deferred or as to the conditions as to access and otherwise on which any public archives should be so deposited, that question shall be determined by the joint decision of the Minister of Internal Affairs and the Minister in charge of that Government office, and the decision of those Ministers shall be final.

9. Public archives and records to be surrendered on demand—Where any public archive or public record (being an archive or a record that is the property of the Crown) is in the possession of any person other than a Government office (whether it came into his possession before or after the passing of this Act), and the original of that public archive or public record is not in the possession of any Government office or deposited in the National Archives, that person shall, on demand in writing by the Chief Archivist, deposit that public archive or public record in the National Archives.

10. Deposit of public archives of less than twenty-five years of age—(1) The Chief Archivist may allow the deposit in the National Archives of public archives of less than twenty-five years of age if he considers that they are of sufficient value for deposit.

(2) Any deposit of public archives under subsection one of this section may be subject to any special conditions imposed by the administrative head of the Government office making the deposit.

11. Deposit of records that are not public archives—The Chief Archivist may accept for deposit in the National Archives any papers, documents, or records of any kind whatsoever that are of an historical nature but are not public archives, subject to any conditions as to availability to the public or otherwise that are agreed upon between the person

making the deposit and the Chief Archivist. All such papers, documents, or records deposited in the National Archives shall be deemed to be public archives for the purposes of this Act.

12. Public records and archives not in the National Archives

—(1) The Chief Archivist shall be entitled from time to time to inspect any public records or public archives that are for the time being in the possession or under the control of any Government office and give such instructions as to their safe preservation and such advice as to their efficient and economical administration and management as he considers necessary.

(2) Nothing in this section shall be deemed to authorise the Chief Archivist to inspect the contents of any public records or public archives that are secret or confidential, except with the consent of the administrative head of the Government office having the custody thereof.

13. Return of public archives to Government office—

Where the administrative head of the Government office by which any public archive was deposited in the National Archives, or the administrative head of the successor of that Government office, satisfies the Chief Archivist that the public archive is required for use in that Government office, the Chief Archivist shall return the public archive to the custody of that Government office for such period as may be agreed upon between the Chief Archivist and the administrative head, and subject to such conditions as the Chief Archivist prescribes to ensure the safe custody and preservation of that public archive during the time it is kept in that Government office.

14. Records of Court of record—No public archives of any Court of record may be deposited in the National Archives or destroyed or otherwise disposed of under this Act, except with the prior approval of a Judge or Magistrate, as the case may be, of that Court and subject to any conditions imposed by him in granting that approval.

15. Public archives not to be destroyed or disposed of without authority of Chief Archivist—(1) No person shall destroy or otherwise dispose of, or authorise the destruction or other disposal of, any public archives of any kind whatsoever that are in his possession or under his control, except with the consent of the Chief Archivist given in accordance with the provisions of this Act.

(2) Before authorising the destruction of any public archives or any class thereof, the Chief Archivist may, if he thinks fit, consult with any person whom the Chief Archivist considers qualified to advise him as to their worth for permanent preservation.

16. Destruction of routine public archives—(1) The Chief Archivist may authorise the immediate destruction, or the destruction after the expiration of such specified time as may be agreed upon between the Chief Archivist and the administrative head of the Government office concerned, of any specified classes of public archives that—

(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 Government office after action on them 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 Chief Archivist and the administrative head of the Government office concerned.

(2) So soon as may be after the passing of this Act and from time to time thereafter as may be considered necessary, schedules of any classes of public archives which are considered by the administrative head to be suitable for destruction under subsection one of this section shall be prepared by the Government office having the possession or control thereof for approval by the Chief Archivist.

(3) Every such schedule shall contain a description of the classes of public archives referred to in the schedule, and shall specify the period, if any, for which each class of public archives referred to in the schedule must be held after the date action thereon is completed before being destroyed.

(4) The Chief Archivist shall take whatever steps he considers necessary to satisfy himself that the classes of public archives included in any schedule do not possess any enduring value for preservation as public archives.

(5) The Chief Archivist may either approve the schedule as submitted or may, after consultation with the administrative head of the Government office concerned, and before giving his approval thereto, amend the schedule by the omission of any class of public archives which he considers should be omitted from the schedule, or by altering the period specified in the schedule for which any class of public archives must be held before being destroyed.

(6) The Chief Archivist, after making any such amendments in the schedule, shall endorse and sign on the schedule a certificate in the prescribed form, and that certificate shall be authority for the destruction from time to time of the classes of public archives referred to in the schedule, either when action on them has been completed or, as the case may be, at the expiration of a period of years from the date on which action on them is completed as specified in the schedule:

Provided that the Chief Archivist, on application by the administrative head of the Government office concerned or of his own motion, may, at any time during the currency of any schedule that has been so endorsed, amend the schedule by omitting any class of public archives or by altering the period for which any class of public archives must be held before being destroyed.

(7) Nothing in this section shall prevent the Chief Archivist from taking at any time such samples of any class of public archives authorised for destruction under this section as he considers should be preserved as public archives:

Provided that any such public archives may, if the administrative head of the Government office concerned so requires, be deposited in the National Archives subject to such conditions as to access as may be agreed upon from time to time by the Chief Archivist and that administrative head, or, if they are unable to agree, as may be jointly determined by the Minister of Internal Affairs and the Minister in charge of that Government office.

17. Destruction of other public archives—(1) Where the Chief Archivist considers that any specified public archives or class of public archives (not being archives to which section sixteen of this Act applies) are not worth permanent preservation, he may in accordance with the provisions of this section, destroy them if they have been deposited in the National Archives or authorise their destruction if they have not been so deposited.

(2) So soon as may be after the passing of this Act and from time to time thereafter as may be considered necessary, the administrative head of each Government office shall cause to be prepared and submitted to the Chief Archivist for his approval lists of the public archives or classes of public archives for the time being in the possession or control of that office (not being archives to which section sixteen of this

Act applies) that the administrative head considers are not worth permanent preservation.

(3) The Chief Archivist shall examine each such list, and shall take whatever steps he considers necessary to satisfy himself that the public archives or any class thereof referred to therein are not worth permanent preservation.

(4) Subject to the provisions of this section, the Chief Archivist may approve any such list as submitted or after consultation with the Government office concerned, and before giving his approval thereto may amend any such list by omitting any items which he considers should be omitted.

(5) The Chief Archivist may from time to time, with the consent of the administrative head of any Government office concerned, prepare lists of public archives or any class thereof which have already passed to the custody of the National Archives and which the Chief Archivist considers are not worth further preservation.

(6) Before destroying or authorising the destruction of any public archives or any class of public archives referred to in any list prepared under this section, the Chief Archivist shall give notice in the *Gazette* of his intention to destroy them or to authorise their destruction, describing generally the public archives or classes thereof referred to in each list the subject of the notice, and specifying the place or places at which the full lists may be inspected:

Provided that nothing in this subsection shall be deemed to authorise any person to examine the contents of any public archive referred to in the list, except with the consent of the administrative head of the Government office concerned and subject to any conditions imposed by him.

(7) Any person may, within one month after the date of the publication of the notice in the *Gazette*, lodge with the Secretary for Internal Affairs an objection to the inclusion of any specified public archives or specified class of public archives in any list, stating therein the grounds of the objection and the items which are the subject of the objection.

(8) Every objection lodged under this section shall be dealt with in the manner prescribed by section eighteen of this Act.

(9) Where no such objection has been lodged within the said period of one month, or where an objection lodged within that period has been disposed of in accordance with the provisions of section eighteen of this Act, the Chief Archivist, after making such amendments in any list as may be necessary to give effect to the decision on any such objection, shall endorse and sign on each list referred to in the notice in the

Gazette a certificate in the prescribed form, and that certificate shall be authority for the destruction from time to time of the public archives or classes of public archives referred to in the list.

18. Procedure for dealing with objections—(1) Every objection lodged under section seventeen of this Act shall be referred by the Secretary for Internal Affairs to the Chief Archivist.

(2) The Chief Archivist shall consider the objection, and shall return it to the Secretary for Internal Affairs with a recommendation as to whether he considers it should be allowed wholly or in part or disallowed.

(3) The Secretary for Internal Affairs may adopt the recommendations of the Chief Archivist and allow or disallow the objection accordingly, or, in any case where the Chief Archivist has recommended that an objection be disallowed or disallowed in part, the Minister may, if he considers it desirable, set up a committee of three persons whom he considers qualified to assess the value of the public archives which are the subject of the objection in order to determine whether the objection or the part thereof should be allowed wholly or in part or disallowed, and in that case the Minister may, after considering the recommendations of the committee, direct the Secretary for Internal Affairs to allow or disallow the objection wholly or in part.

(4) There may be paid out of money appropriated by Parliament for the purpose to each member of any committee set up under subsection three of this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly and the committee shall be a statutory Board for the purposes of that Act.

(5) Any determination by the Secretary for Internal Affairs under subsection three of this section shall be final, and shall be binding on the Chief Archivist and on the person lodging the objection.

(6) Where any objection has been allowed either wholly or in part, the Secretary for Internal Affairs shall notify the decision to the objector and also to the Chief Archivist, and the Chief Archivist shall forthwith amend any list affected by omitting the references to the public archives or the class thereof in respect of which the objection has been allowed or

by making such other alterations in the list as may be necessary to give effect to the decision.

19. Disposal of surplus archives to approved libraries or museums—(1) The Chief Archivist, or the administrative head of any Government office with the consent in writing of the Chief Archivist, may deliver for safe custody to the Alexander Turnbull Library or to any other library, museum, or other body approved by the Minister for the purpose, any public archives or any class of public archives which the Chief Archivist considers to be in excess of or unsuitable to the requirements of the National Archives:

Provided that no public archives which have been deposited in the National Archives subject to any conditions under the provisions of subsection two or subsection three of section eight or of subsection two of section ten or of subsection seven of section sixteen of this Act shall be so delivered contrary to the conditions under which they were so deposited:

Provided also that the Chief Archivist or, as the case may be, the administrative head of the Government office by which the archives were so delivered, or the administrative head of the successor of that office, may at any time, if in his opinion the circumstances so require, demand the return of any public archives so delivered, and the controlling authority shall accordingly return the archives to the Chief Archivist or, as the case may be, to that Government office.

(2) Notwithstanding anything to the contrary in section forty-five of the Deeds Registration Act 1908, the Registrar of Deeds may at any time, with the consent in writing of the Chief Archivist, deliver to the Alexander Turnbull Library or any other library, museum, or other body approved for the purposes of subsection one of this section any instrument deposited in the Deeds Register Office for safe custody which in the opinion of the Registrar is no longer required to be securely kept in the Register Office.

(3) Every instrument delivered in accordance with subsection two of this section shall be kept in safe custody in the library or museum by the officer for the time being in charge thereof, and shall be available for inspection by the Registrar on demand.

(4) The Registrar may at any time require the return to him of any instrument delivered to any person under the authority of subsection two of this section, and in any such case the person for the time being responsible for the safe custody of the instrument shall return it to the Registrar accordingly.

20. Access of public to National Archives—(1) Except as may be otherwise provided in any Act, and subject to the conditions under which any archives are deposited, all archives deposited in the National Archives shall be available for public reference in accordance with regulations made under this Act:

Provided that—

- (a) The Minister may direct the Chief Archivist to withhold access to any specified public archives or any specified class of public archives for any specified period—
 - (i) Where on the grounds of public policy he considers it advisable to do so; or
 - (ii) To conform with the policy of the Government of any other country with respect to public access to archives relating to that country in any case where that Government has requested that access be so withheld:
- (b) Any public archive deposited in the National Archives by the Police Department may be inspected only by a person authorised in writing in that behalf by the Minister of Police:
- (c) Any public archive deposited in the National Archives by the Department of Justice and containing any information relating to the trial or punishment of any particular person may be inspected only by a person authorised in writing in that behalf by the Minister of Justice:
- (d) The Chief Archivist may refuse access to any public archives if he considers the refusal to be necessary on account of the fragile condition thereof or pending their classification, repair, or other treatment.

(2) Subject to the provisions of paragraphs (b) and (c) of the proviso to subsection one of this section, any person may, at the discretion of the Minister and subject to such conditions as the Minister may impose and to any conditions on which the archives were deposited in the National Archives, have access to public archives deposited in the National Archives other than those made available for public reference pursuant to subsection one of this section.

(3) Any person may, with the consent of the Chief Archivist, make or cause to be made at his own expense copies of or extracts from any public archives which are available for public reference under this section.

21. Publication of public archives—On the recommendation of the Chief Archivist, the Minister may authorise the publication of any public archives deposited in the National Archives and available for public reference which he considers to be of sufficient interest to warrant their publication.

22. Copyright—(1) Nothing in this Act shall derogate from any provision of the Copyright Act 1913 in relation to anything contained in any public archive deposited in the National Archives under this Act.

(2) Where any person publishes any work containing any passage from any public archive deposited in the National Archives, he shall in that publication acknowledge the source from which that passage is taken.

23. Chief Archivist may advise on preservation of archives that are not public archives—The Chief Archivist may, at the request or with the consent of any body or person having the possession or control of archives that are not public archives, inspect those archives and give such advice as he considers necessary regarding their custody and preservation, the granting of access to persons desiring access thereto, and any other matters in respect of which his advice may be sought.

Miscellaneous Provisions

24. Offences and penalties—(1) Every person commits an offence against this Act who—

- (a) Wilfully or negligently damages any public records or public archives; or
- (b) Wilfully or negligently disposes of or destroys any public records or public archives otherwise than in accordance with the provisions of this Act; or
- (c) Does any act in contravention of or fails to comply with any provision of this Act.

(2) Every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding one hundred pounds.

(3) The Court by which any person is convicted of an offence against paragraph (a) or paragraph (b) of subsection one of this section may, in addition to any penalty imposed for the offence, direct that that person shall not be entitled to have access to the National Archives for such period as the Court thinks fit.

25. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated by this Act and all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by this section, regulations may be made under this section—

- (a) Regulating the transfer of public archives from any Government office to the National Archives or to any record centre or other repository which may be established for the purposes of this Act:
- (b) Regulating the manner of destruction or other disposal of valueless public archives:
- (c) Regulating the admission of the public to the National Archives and the use by the public of public archives deposited in the National Archives:
- (d) Providing for the custody and preservation of records deposited in the National Archives pursuant to section eleven of this Act, and prescribing the fees (if any) to be charged for that custody and preservation:
- (e) Regulating the inspection by the Chief Archivist of archives that are not public archives, the giving of advice in connection therewith, and the fees (if any) to be charged for that inspection and advice.

(3) All regulations made under this Act shall be laid before Parliament within twenty-eight days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

26. Repeals and amendment—(1) The following enactments are hereby repealed:

- (a) Section fifteen of the Statutes Amendment Act 1939:
- (b) Sections two hundred and thirteen and two hundred and fourteen of the Land Transfer Act 1952:
- (c) Section ten of the Companies Act 1955.

(2) Section one hundred and eleven of the Land Transfer Act 1952 is hereby amended by omitting from subsection three the words “and may destroy the duplicate previously so filed”.