
National Archives Act 2003

1National Archives

LAWS OF MALAYSIA

REPRINT

Act 629

NATIONAL ARCHIVES ACT 2003

Incorporating all amendments up to 1 January 2006 PUBLISHED BY

THE COMMISSIONER OF LAW REVISION, MALAYSIA

UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968 IN COLLABORATION WITH

PERCETAKAN NASIONAL MALAYSIA BHD

2006

2

NATIONAL ARCHIVES ACT 2003

Date of Royal Assent 29 July 2003 Date of publication in
the Gazette 7 August 2003 PREVIOUS REPRINT

First Reprint 2004

3

LAWS OF MALAYSIA

Act 629

NATIONAL ARCHIVES ACT 2003

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title, application and commencement
2. Interpretation
3. Declaration of federal status PART II

NATIONAL ARCHIVES AND DIRECTOR GENERAL

4. Establishment of National Archives
5. Appointment of Director General
6. Appointment of officers
7. Functions of the Director General
8. Power of review
9. Power to delegate
10. Appointment of Resource Persons PART III

ADVISORY BOARD

11. Establishment of Board
12. Functions of Board
13. Authority to depart from advice of Board
14. Membership of Board 4 Laws of Malaysia ACT 629
15. Secretary
16. Tenure of office
17. Revocation of appointment and resignation of members
18. Vacation of office
19. Filling of vacancies

20. Remuneration or allowance
21. Meetings of Board
22. Board may invite others to meetings
23. Minutes
24. Procedure PART IV

MANAGEMENT OF RECORDS

25. Prohibition against destruction of public records
26. Disposal of public records
27. Records disposal schedule
28. Transfer of public records to National Archives
29. Public records to be surrendered on demand
30. Custody and control of public records of a defunct public office
31. Acquisition of non-public records
32. Deposit of records
33. Establishment of Record Centres and Agency Record Centres
34. Establishment of Limbo Record Centres
35. Return of public records PART V

ADMINISTRATION OF ARCHIVES

36. Processing and preservation of public archives
 37. Access to public archives
 38. Access to classified records
 39. Prohibition against reproduction and publication of public archives
- Section

5National Archives

PART VI

ESTABLISHMENT AND MANAGEMENT OF MINISTERIAL

ARCHIVES AND MEMORIAL ARCHIVES

Section

40. Establishment of ministerial archives and memorial archives

41. Materials to be deposited in ministerial archives and memorial archives

PART VII

GENERAL

42. Legal validity of photographic copies and extracts

43. Authentication of photographic copies and extracts

44. Prohibition against export

45. Regulations

46. Annual report

47. Repeal and saving PART VIII

STATE ARCHIVES

48. Establishment of State Archives 6 Laws of Malaysia ACT 629

7National Archives

LAWS OF MALAYSIA

Act 629

NATIONAL ARCHIVES ACT 2003

An Act to provide for the creation, acquisition, custody, preservation, use and management of public archives and public records; and for other matters connected therewith.

[10 October 2003, P.U. (B) 300/2003]

ENACTED by the Parliament of Malaysia as follows: PART I

PRELIMINARY

Short title, application and commencement

1. (1) This Act may be cited as the National Archives Act 2003. (2) This Act shall apply--

(a) throughout Peninsular Malaysia and the Federal Territories of Kuala Lumpur, Labuan and Putrajaya;

(b) throughout the States of Sabah and Sarawak but only in respect of public records of the Government which come into existence on or after *Malaysia Day.

(3) This Act shall come into operation on a date to be appointed by the Minister by notification in the Gazette.

(4) Except as otherwise expressly provided by this Act, the provisions of this Act do not affect any provision relating to records made by or under any other written law.

*NOTE--Malaysia Day is the day on which the Malaysia Act 1963 [Act No. 26/1963] came into force, i.e. 16 September 1963--see section 2 of Act No. 26/1963. 8 Laws of Malaysia ACT 629

Interpretation

2. (1) In this Act, unless the context otherwise requires-- "archives" means records which are preserved for their permanent and enduring national or historical value or both; "public archives" means--

(a) public records--

(i) which are specified by the Director General as being of permanent and enduring national or

historical value or both; and

(ii) which have been transferred to the National Archives or such other place as the Director General may

from time to time direct; and

(b) any private records or other material which are specified by the Director General as being of permanent and enduring national or historical value or both acquired for the National Archives by the Director General;

"memorial archives" means an institution operated by the National Archives to house, conserve and exhibit any historical materials to commemorate an event or a person or other aspects of history and the archives housed therein;

"ministerial archives" means materials pertaining to any Ministers of the Federal Government and preserved for purposes of research and understanding the policies and actions that had been implemented; "National Archives" means the National Archives of Malaysia established under section 4;

"reproduction" means an exact copy of a record in content and form but not necessarily in size and appearance;

"Director General" means the Director General of National Archives appointed under section 5;

"Board" means the Advisory Board established under section 11;

9National Archives

"proper officer" means an archivist who performs duties on behalf of the Director General in the management of records and administration of archives;

"public office" means an office of the Federal Government or the Government of any State or an office of any local authority, statutory authority or Government enterprise;

"public officer" means a person holding office or employment in any of the public services;

"disposal" means the manner of managing the segregation of records with a view to destruction, transfer or otherwise; "enlargement" means a reproduction larger than the original or the interim which is used to make the reproduction; "preservation" means the totality of processes and operations involved in the physical protection of public records and archives against damage or deterioration and in the restoration or repair of such records and archives;

"acquisition" means to acquire by way of transfer, purchase, donation, bequest, gift or otherwise;

"destruction" means the act of destroying or eliminating any type of records by any means;

"public service" means--

(a) any of the public services referred to in Article 132 of the Federal Constitution;

(b) the service of any local authority; and

(c) the service of any statutory authority exercising powers vested in it by Federal or State law;

"Government enterprise" means any enterprise the capital of which wholly or partially originates from the Federal Government or the Government of any State;

"statutory authority" means any statutory body incorporated by any written law for the purposes of the Federal Government or the Government of any State;

10 Laws of Malaysia ACT 629

"Record Centre" means a repository, operated by National Archives for the purpose of storing, processing and servicing non-current records pending their ultimate disposal;

"Agency Record Centre" means a record centre operated by a non-archival agency of the Government and in which the Government's records are maintained and preserved; "Limbo Record Centre" means a building designed and constructed for the low-cost storage, maintenance and communication of semi-current records pending their ultimate disposal; "microfilm recording" means a reproduction of a record on film or other material which is a product of photography or any similar process and is in general not legible to the naked eye; "records" means materials in written or other form setting out facts or events or otherwise recording information and includes papers, documents, registers, printed materials, books, maps, plans, drawings, photographs, microfilms, cinematograph films, sound recordings, electronically produced records regardless of physical form or characteristics and any copy thereof;

"public records" means records officially received or produced by any public office for the conduct of its affairs or by any public officer or employee of a public office in the course of his official duties and includes the records of any Government enterprise and also includes all records which, on the

coming into operation of this Act, are in the custody or under the control of the National Archives of Malaysia established under the National Archives Act 1966 [Act 511];

"ministerial records" means records pertaining to any Ministers of the Federal Government relating to their tenure in office, events in their official and personal lives;

"private records" means records of individuals and records of non-governmental agencies, institutions and organizations; "classified records" means public records which are classified as official secret within the meaning of the Official Secrets Act 1972 [Act 88];

"photographic copy" means any copy of a record made by reprography;

11 National Archives

"concluded", in relation to a public record, means no further action is required to be taken on that record.

(2) For the purposes of this Act, records shall be treated as being in the custody or under the control of the National Archives if the records are in its possession by virtue of sections 28, 29, 30 and 31 or if the National Archives has power to give directions as to their custody.

(3) Where records which are created at different dates are for administrative purposes kept together in one file or other assembly, all the records in that file or other assembly shall be treated for the purposes of this Act as having been created when the latest of those records was created.

Declaration of federal status

3. (1) All archives which are in the custody or under the control of the National Archives on or after the coming into operation of this Act are declared to be federal archives.

(2) All public records in the custody or under the control of a public office on or after the coming into operation of this Act are declared to be federal public records.

(3) The Minister may, from time to time, on the advice of the Director General, by order published in the Gazette, declare any archives or records, as the case may be, to be federal archives or federal records.

PART II

NATIONAL ARCHIVES AND DIRECTOR GENERAL

Establishment of National Archives

4. There shall be established a National Archives of Malaysia, which is declared to be a federal archives, for the purpose of providing guidelines in the creation, acquisition, storage and preservation of records and providing facilities for reference, research or other purposes.

12 Laws of Malaysia ACT 629

Appointment of Director General

5. (1) The Yang di-Pertuan Agong shall appoint a Director General for the purpose of carrying out the powers and functions assigned to the Director General under this Act.

(2) The appointment of the Director General shall be notified in the Gazette.

(3) The Director General shall have an official seal for the authentication of public archives required for the purposes of his powers and functions under this Act.

Appointment of officers

6. (1) The Minister may, from time to time, appoint such officers as are necessary to assist the Director General in the performance of his functions and the exercise of his powers under this Act. (2) All officers appointed under subsection (1) shall be subject to the supervision, direction and control of the Director General. (3) An officer may perform the functions and exercise all the powers conferred upon the Director General under this Act.

Functions of the Director General

7. The functions of the Director General are as follows: (a) to examine records which are in the custody or under the control of a public office, to identify records which are of permanent or enduring national or historical value or both and to advise on the creation, maintenance, storage, use and disposal of such records;

(b) to take suitable measures in preserving any records which are in the custody or under the control of the National Archives;

(c) to acquire records and materials which in the opinion of the Director

General are or are likely to be of permanent or enduring national or historical value or both; (d) to establish, maintain and operate Record Centres and Limbo Record Centres;

13 National Archives

(e) to destroy or otherwise dispose of or to authorize the destruction or disposal of public records;

(f) to advise public offices on the establishment of Agency Record Centres;

(g) to advise public offices in the planning, implementation and evaluation of their records management programmes; (h) to establish standard and procedures for the improvement of public records and archives management programmes; (i) to provide training in management of public records and archives administration;

(j) to arrange, classify and preserve public archives; (k) to prepare finding aids of public archives;

(l) to determine access and usage of public archives; (m) to provide facilities for research and reference; (n) subject to the terms and conditions on which they are obtained, and subject to the law relating to copyright, to reproduce or publish any public archives or any part of the archives;

(o) to establish, maintain and operate ministerial archives and memorial archives;

(p) to do any such things which appear necessary or expedient to enable adequate use to be made of public archives; (q) to identify and make copies of vital records which are essential to the continued functioning or reconstruction of an organization during and after an emergency and also those records essential to the protection of rights and interests of that organization and of the individuals directly affected by its activities;

(r) to authenticate copies or extracts of public archives; (s) to prepare, publish, sell or distribute publications concerning or relating to public archives, or concerning the activities of and facilities provided by the National Archives; (t) to gather and disseminate historical information; (u) to do all such things as may be incidental to or consequential upon the discharge of his powers and functions.

14 Laws of Malaysia ACT 629

Power of review

8. (1) The Director General shall from time to time review or cause to be reviewed any classified records which are in the custody or under the control of the National Archives.

(2) For the purpose of subsection (1) and subject to subsection (3), the Director General shall have the power to inspect the contents of any classified records and to reclassify or declassify those classified records which are in the custody or under the control of National Archives.

(3) The review and reclassification or declassification of any classified records shall be carried out in accordance with the Official Secrets Act 1972.

Power to delegate

9. (1) The Director General may, in writing, delegate any of his functions under this Act, subject to such conditions, limitations or restrictions as he thinks fit, to a person or class of persons and the person or class of persons to whom those functions are delegated may perform those functions in the same manner and with the same effect as if those functions had been conferred on him or them under this Act.

(2) A person purporting to act pursuant to a delegation made 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.

(3) A delegation made under this section may at any time be revoked by the Director General.

(4) A delegation made under this section shall not prevent the Director General from carrying out the duty or function so delegated.

Appointment of Resource Persons

10. (1) The Director General may, from time to time, as and when necessary, appoint any person who possesses the ability or expertise to carry out historical research and documentation work to be a Resource Person.

15 National Archives

(2) The term of appointment of a Resource Person shall be such period as the Director General may determine at the time of his appointment.

(3) The functions of a Resource Person are as follows: (a) to assist documentation work;

(b) to identify, ascertain and otherwise confirm information or facts with respect to the history of Malaysia; (c) to do research for the purpose of, and compile and produce, historical publications; and

(d) to assist in any activities carried out by the National Archives.

PART III

ADVISORY BOARD

Establishment of Board

11. There shall be established an Advisory Board for the purpose of advising the Director General in the performance of his functions and the exercise of his powers under this Act.

Functions of Board

12. The functions of the Board are as follows: (a) to advise the Director General on such matters as the Director General may from time to time refer to it; and (b) to advise the Director General on such matters as the Board may think fit.

Authority to depart from advice of Board

13. Notwithstanding section 12, the Director General may, after consultation with the Minister, depart from the advice given by the Board, but if the Director General does so--

(a) he shall record fully in writing, for inclusion in the minutes of the earliest meeting of the Board after the making of that decision, the reason for his decision; and

16 Laws of Malaysia ACT 629

(b) it shall be competent for any member of the Board to require that there shall be recorded in the minutes of the earliest meeting of the Board after the making of that decision, any advice or opinion that the member may have given upon the question in dispute and the reasons therefor.

Membership of Board

14. (1) The Board shall consist of the following members: (a) a Chairman, to be appointed by the Minister;

(b) the Director General; and

(c) not less than three but not more than ten other members, to be appointed by the Minister.

(2) Members of the Board other than the Director General shall be appointed according to their areas of competence and, subject to sections 16 and 17, hold office subject to such terms and conditions as the Minister may determine.

Secretary

15. There shall be a Secretary to the Board who shall be appointed from amongst officers of the National Archives.

Tenure of office

16. Subject to section 17, a member of the Board other than the Director General shall, unless he sooner resigns or his appointment is sooner revoked, hold office for such period not exceeding three years as the Minister may determine at the time of his appointment and shall be eligible for reappointment.

Revocation of appointment and resignation of members

17. (1) The appointment of a member of the Board other than the Director General may at any time be revoked by the Minister. (2) A member of the Board other than the Director General may at any time resign his office by giving fourteen days' written notice addressed to the Minister.

17 National Archives

Vacation of office

18. The office of a member of the Board other than the Director General shall be vacated if--

(a) he dies;

(b) there has been proved against him, or he has been convicted of, a charge in respect of--

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption; or

(iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;

(c) he becomes bankrupt;

(d) he is of unsound mind or is otherwise incapable of discharging his duties;

(e) he absents himself from three consecutive meetings of the Board without leave of the Chairman;

(f) his resignation is accepted by the Minister; or (g) his appointment is revoked by the Minister.

Filling of vacancies

19. Where a member other than the Director General ceases to be a member of the Board, the Minister may appoint another person to fill the vacancy for the remainder of the term for which the vacating member was appointed.

Remuneration or allowance

20. Members of the Board and any other person who is invited to attend a meeting or deliberation of the Board under section 22 may be paid such remuneration or allowance as the Minister may, after consultation with the Minister of Finance, determine. 18 Laws of Malaysia ACT 629

Meetings of Board

21. (1) The Board shall meet as often as may be necessary in a year for the performance of its functions.

(2) The Chairman shall preside at all meetings of the Board. (3) A meeting of the Board shall be convened by the Chairman by notice in writing to the other members and the meeting shall be held at the time and place specified in the notice. (4) The quorum of the Board shall be five.

(5) The decision of the Board shall be by majority votes, and where there is an equality of votes, the Chairman shall have the deciding vote.

Board may invite others to meetings

22. The Board may invite any person who is not a member of the Board to attend any meeting or deliberation of the Board for the purpose of advising it on any

matter under discussion but such person shall have no right to vote at the meeting or deliberation. Minutes

23. (1) The Board shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Any minutes made of meetings of the Board shall, if duly signed by the Chairman, be admissible as evidence of the facts stated therein in any legal proceeding without further proof and every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Procedure

24. Subject to this Act, the Board shall determine its own procedure.
19National Archives

PART IV

MANAGEMENT OF RECORDS

Prohibition against destruction of public records

25. (1) Notwithstanding any written law to the contrary, no person shall, except with the prior written consent of the Director General, destroy or authorize the destruction of any public records which are in the custody or under the control of that person. (2) A person intending to destroy or authorize the destruction of any public records shall--

(a) notify the Director General in the prescribed form of the intention to do so; and

(b) in such notification, specify the nature of the public records in question.

(3) The Director General may require any public records specified in a notification under subsection (2) to be made available to him for his inspection and he may inspect such records. (4) The Director General may, in accordance with section 26, consent to the destruction of the public records specified in the notification under subsection (2).

(5) Any person who contravenes subsections (1) and (2) or who fails to have available any public record as required by the Director General under

subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both. Disposal of public records

26. The Director General may authorize the disposal of any public records or classes of public records which--

(a) by reason of their number, kind or routine nature, do not in his opinion possess any permanent and enduring national or historical value or both;

(b) are not required for reference purposes in any public office after--

(i) action on the public records are completed;

20 Laws of Malaysia ACT 629

(ii) the expiration of such period as may be agreed upon between the Director General and the

administrative head of that public office; or

(c) their physical condition does not permit their continued preservation.

Records disposal schedule

27. (1) The administrative head of a public office shall prepare and submit a record disposal schedule in the prescribed form for the disposal of public records to the Director General for his approval.

(2) The Director General may approve the record disposal schedule submitted under subsection (1) and, in approving any such schedule, may impose any requirement or condition as he thinks fit. (3) For the purpose of this section, "records disposal schedule" means a schedule identifying those records of archival value to be preserved and authorizing the destruction of the remaining records after the lapse of specified retention periods.

Transfer of public records to National Archives

28. (1) Subject to subsection (2), the following public records which are in the custody or under the control of a public office shall be transferred by the administrative head of public office to the custody and control of the National Archives: (a) any public records which have been concluded for a period of more than five years;

(b) any electronically produced records; and

(c) any non-current public records which in the opinion of the Director General are of permanent and enduring national or historical value or both.

(2) Electronically produced records shall be transferred immediately when they are no longer active.

21 National Archives

(3) The Director General may defer the transfer of any public records if he is satisfied that by reason of the nature of the public records concerned, the immediate transfer of the public records prejudice the administration of any public office or would be contrary to public interest.

(4) Nothing in this section shall be deemed to authorize the transfer of classified records except with the prior written consent of the Minister charged with the responsibility for the public office concerned.

(5) Nothing in this section shall be construed as affecting or extending the law relating to copyright.

Public records to be surrendered on demand

29. (1) A person who, not being a public officer with special permission to keep and handle records in the course of his official duties, is in possession of any public records which-- (a) are more than twenty years old; or

(b) are non-current public records which in the opinion of the Director General are or are likely to be of permanent and enduring national or historical value or both, shall, on demand by the Director General or a proper officer, surrender the public records to the custody and control of the National Archives.

(2) A public record the surrender of which is demanded under subsection (1) need not be surrendered if the head of the public office or the head of the Government enterprise has permitted the person referred to in that subsection to retain possession of the record.

(3) Any person who, without the permission referred to in subsection (2), fails to surrender public records as required under subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) This section shall apply to all public records regardless whether they were taken possession of before or after the coming into operation of this Act.

22 Laws of Malaysia ACT 629

Custody and control of public records of a defunct public office

30. (1) The National Archives shall, unless expressly provided otherwise by any other written law, have the custody of or control over all public records of a defunct public office. (2) Section 8 shall apply for the purpose of reviewing classified records of a defunct public office.

(3) For the purposes of this Act, a public office shall be deemed to be defunct if it is no longer in operation and there is no successor to its duties and functions.

Acquisition of non-public records

31. The Director General may acquire any record not being public record which in his opinion are or are likely to be of permanent and enduring national or historical value or both. Deposit of records

32. (1) All records required under this Act to be transferred or surrendered to, or to be deposited with the National Archives, shall be deposited in the National Archives or at any other place as the Director General may direct.

(2) In any case in which records of any description are deposited with the National Archives pursuant to this Act, the Director General shall receive and retain the records in the manner and for the purposes directed by this Act, and shall make such notes or endorsements on, and give such acknowledgments in respect of, the records as may be necessary.

Establishment of Record Centres and Agency Record Centres

33. (1) For the purposes of this Act, the Director General may establish, maintain and operate Record Centres.

(2) A Record Centre shall be responsible for the storage, processing and servicing of the records in the Record Centre. 23National Archives

(3) The Director General may advise and authorize the establishment of Agency Record Centres to be operated by the public offices which shall be responsible for the maintenance and preservation of their records in the Agency Record Centres. Establishment of Limbo Record Centres

34. (1) The Director General may establish Limbo Record Centres for the purpose of storing and maintaining semi-current records pending their ultimate disposal.

(2) The deposit of records with Limbo Record Centres shall be in the manner as prescribed by the Director General. (3) For the purpose of this section, "semi-current records" mean records which are not frequently required in the conduct of current business in the public offices.

Return of public records

35. (1) The Director General shall, at the request in writing of the administrative head of a public office, return to that public office any public record transferred from that public office for such period as may be agreed upon between the Director General and the administrative head of that public office and upon such conditions as the Director General thinks fit.

(2) Nothing in this section shall be deemed to require the Director General to return any public record the condition of which does not warrant its removal from the custody or control of the National Archives.

PART V

ADMINISTRATION OF ARCHIVES

Processing and preservation of public archives

36. All public archives shall-- (a) be stored;

(b) be arranged, classified and described to facilitate reference to them;

24 Laws of Malaysia ACT 629

(c) where necessary, be repaired, restored or otherwise preserved; and

(d) where necessary, be transferred to microfilm recordings, photographic copies, or any other forms of storage. Access to public archives

37. (1) Subject to this Act and to the conditions under which they are made available to or deposited in the National Archives, public archives shall be made available to the public after twenty-five years from the date of conclusion of the record or material forming the public archives or such period as the Director General may prescribe.

(2) The Director General shall make available, subject to such conditions, restrictions or procedure as may be prescribed, reasonable facilities to enable members of the public to refer to and obtain copies of or extracts from public archives.

(3) The proper officer may make available to the members of the public, subject to such conditions, restrictions or procedure as may be prescribed, any public archives for reference, research or other purposes.

(4) Any requirement imposed by any other written law that public archives of any description which are in the custody or under the control of the National Archives shall be made available for reference shall be satisfied by the making available for reference of microfilm recordings, photographic copies of the classified records or any other forms of storage of the public archives.

(5) No person shall make copies of or take extracts from any public archives except in accordance with this Act. (6) Any person who contravenes subsection (5) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(7) Without prejudice to the generality of subsections (1), (2), (3), (4) and (5), access to public archives shall be as prescribed. 25National Archives

Access to classified records

38. (1) Classified records which are in the custody of the National Archives shall not be available for public reference except as provided under this section.

(2) The Director General may permit a person to make reference to classified records if that person has obtained special authority in writing in that behalf from the administrative head of the office responsible for those classified records.

(3) The Director General shall make available, subject to such conditions, restrictions or procedure as may be prescribed, reasonable facilities to enable members of the public to refer to classified records.

(4) The proper officer may make available to the member of the public, subject to such conditions, restrictions or procedure as may be prescribed, any classified records for reference, research or other purposes.

(5) Any requirement imposed by any other written law that classified records of any description which are in the custody or under the control of the

National Archives shall be made available for reference shall be satisfied by the making available for reference of microfilm recordings, photographic copies of the classified records or any other forms of storage of the classified records. (6) No person shall make copies of or take extracts from any classified records except with the prior written permission of the administrative head of the office responsible for the classified records and in accordance with this Act.

(7) Any person who contravenes subsection (6) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(8) Without prejudice to the generality of subsections (2), (3), (4), (5) and (6), access to classified records shall be as prescribed.

26 Laws of Malaysia ACT 629

Prohibition against reproduction and publication of public archives

39. (1) No person may reproduce or publish in whole or in part the contents of any public archives except--

(a) with the prior written consent of the Director General; (b) in accordance with such terms and conditions as may be prescribed; and

(c) upon payment of the fees as may be prescribed. (2) Nothing in this section shall be construed as affecting or extending the law relating to copyright.

PART VI

ESTABLISHMENT AND MANAGEMENT OF MINISTERIAL

ARCHIVES AND MEMORIAL ARCHIVES

Establishment of ministerial archives and memorial archives

40. (1) The Director General may, after consultation with the Minister, establish ministerial archives and memorial archives. (2) The ministerial archives and memorial archives established under subsection (1) shall be maintained and operated by the National Archives as prescribed.

Materials to be deposited in ministerial archives and memorial archives

41. For the purpose of this section, there shall be deposited-- (a) in ministerial archives, all relevant ministerial records and any other materials

or objects as may be provided by this Act or any other written law; or

(b) in memorial archives, all relevant memorial archives and any other materials or objects as may be provided by this Act or any other written law.

27National Archives

PART VII

GENERAL

Legal validity of photographic copies and extracts

42. (1) In any legal proceedings, a microfilm recording and a photographic copy of or an extract from--

(a) any records in the custody or under the control of the National Archives; or

(b) any records or any part thereof which have been destroyed or otherwise disposed of from the custody or under the control of the National Archives,

purporting to have been examined and certified as authentic by the Director General and to be sealed or stamped with the official seal of the Director General shall be admissible as evidence without any further or other proof thereof if the original records would have been admissible as evidence in those proceedings. (2) The court before which a microfilm recording, a photographic copy or an extract is tendered in evidence under subsection (1) may, if the original is in existence, require the production of the original and thereupon subsection (1) shall cease to apply to the recording, copy or extract.

(3) For the purpose of this section, enlargement of microfilm recordings of records shall be deemed to be photographic copies of those records.

Authentication of photographic copies and extracts

43. (1) Any microfilm recording, photographic copy or extract which the Director General is authorized or required under this Act to authenticate may be signed by the proper officer on behalf of the Director General and shall be sealed or stamped with the official seal of the Director General.

(2) Any microfilm recording, photographic copy or extract purporting to bear the signature of the proper officer and the official seal of the Director

General shall, until the contrary is proved, be deemed to have been duly authenticated by the authority of the Director General.

28 Laws of Malaysia ACT 629

(3) There shall be paid such fees as may be prescribed for the authentication under this section of any microfilm recording, photographic copy or extract on the application of any person. Prohibition against export

44. (1) No person, other than a proper officer, shall take or send out of Malaysia any archives except--

- (a) with the prior written consent of the Director General; and
- (b) in accordance with such terms and conditions as may be prescribed.

(2) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Regulations

45. (1) The Minister may make regulations for carrying out the provisions of this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for all or any of the following purposes:

- (a) prescribing the procedure for the creation, classification and management of current public records;
- (b) prescribing the procedure for the review, reclassification and declassification of any records which are in the custody or under the control of the National Archives;
- (c) prescribing the forms for the purposes of this Act; (d) prescribing the fees to be paid under this Act; (e) prescribing the procedure to be followed in relation to access to public archives and classified records; (f) prescribing the management of ministerial archives and memorial archives and any other property of the National Archives and audit of its accounts;

29 National Archives

- (g) prescribing the terms and conditions to be imposed on the usage, reproduction and publication of archives; (h) prescribing the terms and

conditions to be imposed on the export of archives;

(i) prescribing the management of public records which are in the custody or under the control of public offices including the supervision of records management

programmes thereat;

(j) prescribing matters on the establishment of Agency Record Centres to maintain and preserve their own records; and (k) prescribing any other matter which is required under this Act to be prescribed.

Annual report

46. (1) The Director General shall, as soon as practicable after the end of each year, cause to be made and transmitted to the Minister a report dealing with the activities of the National Archives during the preceding year.

(2) The Minister shall cause a copy of the report under subsection (1) to be laid before both Houses of Parliament.

Repeal and saving

47. (1) The National Archives Act 1966 is repealed. (2) A person who, immediately before the coming into operation of this Act, was holding an office to which appointment may be made under this Act shall continue in that office and be deemed for the purposes of this Act to have been so appointed under this Act.

PART VIII

STATE ARCHIVES

Establishment of State Archives

48. (1) A State Government may, with the approval of the Yang di-Pertuan Agong, by order, establish a State Archives. 30 Laws of Malaysia ACT 629

(2) The provisions of sections 4 to 47 of this Act shall apply mutatis mutandis to a State Archives as they apply to the National Archives, in particular and subject to the following: (a) there shall be read for the word "ten" in paragraph 14(1) (c), the word "six";

(b) references to the Minister shall be construed as references to the Menteri

Besar or, as the case may be, the Chief Minister of the State; and

(c) the reference to each House of Parliament in subsection 46(2) shall be construed as reference to the Legislative Assembly of a State.

31 National Archives

LAWS OF MALAYSIA

Act 629

NATIONAL ARCHIVES ACT 2003

LIST OF AMENDMENTS

Amending law Short title In force from

-- NIL --

32 Laws of Malaysia ACT 629

LAWS OF MALAYSIA

Act 629

NATIONAL ARCHIVES ACT 2003

LIST OF SECTIONS AMENDED

Section Amending authority In force from

-- NIL --

DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA