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FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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OFFICE OF THE PREMIER

No. 4

16 April 1999

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

No. 4 of 1999: Free State Provincial Archives Act, 1999

KANTOOR VAN DIE PREMIER

No. 4

16 April 1999

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 4 van 1999: Wet op die Vrystaat Provinsiale Argief, 1999

ACT

To provide for a Provincial Archives; the proper management and care of the records of governmental bodies; and the preservation and use of a provincial archival heritage for all the people of the Province; and for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:-

*(English text signed by the Premier.)
(Assented to 14 April 1999)*

Definitions

1. In this Act, unless the context otherwise indicates -

"appraisal" means the archival function of determining the eventual disposal of records;

"archives" means records in the custody of an archives repository;

"archives repository" means any archives repository contemplated in section 11 (1);

"Council" means the Provincial Archives Council contemplated in section 6;

"custody" means the control of records based upon their physical possession;

"disposal authority" means a written authority issued in terms of section 13(2)(a) specifying records to be transferred into the custody of the Provincial Archives or specifying records to be otherwise disposed of;

"electronic records system" means any records system in which information is generated electronically and stored by means of computer technology;

"governmental body" means any legislative, executive, judicial or administrative organ of state (including a statutory body) at the provincial or local level of government in the Province;

"head of a governmental body" means the chief executive officer of a governmental body or the person who is acting as such;

"Member for Finance" means the Member of the Executive Council responsible for Finance;

"National Archives" means the National Archives of South Africa established by section 2 of the National Archives of South Africa Act, 1996 (Act No 43 of 1996);

WET

Om voorsiening te maak vir 'n Provinsiale Argief; die behoorlike bestuur en versorging van die rekords van regeringsliggame; en die bewaring en gebruik van 'n provinsiale argivale erfenis vir alle mense van die Provinsie; en vir aangeleenthede wat daarmee in verband staan

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat, soos volg:-

*(Engelse teks deur die Premier geteken.)
(Bekragtig op 14 April 1999)*

5 Woordomskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken -

10 "argiefbewaarplek" enige argiefbewaarplek beoog in artikel 11(1);

"argiewe" rekords in bewaring van 'n argiefbewaarplek;

15 "beskikkingsmagtiging" 'n skriftelike magtiging uitgereik ingevolge artikel 13(2)(a) wat rekords vermeld wat in die bewaring van die Provinsiale Argief oorgeplaas moet word of wat rekords vermeld wat op 'n ander wyse oor beskik moet word;

"bewaring" die beheer van rekords gebaseer op die fisiese besit daarvan;

20 "elektroniese rekordstelsel" enige rekordstelsel waarin inligting elektronies gegenereer en deur middel van rekenaartegnologie gestoor word;

"hierdie Wet" ook die regulasies;

25 "hoof van 'n regeringsliggaam" die hoof uitvoerende beampte van 'n regeringsliggaam of die persoon wat as sodanig waarneem;

"keuring" die argivale funksie waarvolgens die uiteindelijke beskikking oor rekords bepaal word;

30 "Lid van Finansies" die Lid van die Uitvoerende Raad verantwoordelik vir Finansies;

"Nasionale Argief" die Nasionale Argief van Suid-Afrika ingestel by artikel 2 van die Wet op die Nasionale Argief van Suid-Afrika, 1996 (Wet No 43 van 1996);

35 "nie-publieke rekord" 'n rekord geskep of ontvang deur 'n private individu of 'n liggaam anders as 'n regeringsliggaam soos omskryf in die Wet op die Nasionale Argief, 1996 (Wet No 43 van 1996) of hierdie Wet;

40 "Provinsiale Argief" die Vrystaatse Provinsiale Argief ingestel by hierdie Wet;

"non-public record" means a record created or received by a private individual or a body other than one defined as a governmental body in terms of the National Archives of South Africa Act, 1996 (Act No 43 of 1996) or this Act;

"prescribe" means prescribe by regulation;

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"Province" means the Free State Province;

"Provincial Archives" means the Free State Provincial Archives established by this Act;

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"public record" means a record created or received by a governmental body in pursuance of its activities;

"record" means recorded information regardless of form or medium;

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"records classification system" means a classification plan for the identification, arrangement, storage and retrieval of records;

"regulation" means any regulation made under this Act;

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"responsible Member" means the Member of the Executive Council responsible for the administration of this Act;

"this Act" includes the regulations.

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Establishment of the Free State Provincial Archives

2. There is hereby established the Free State Provincial Archives as a branch of the Public Service.

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Objects and functions of the Provincial Archives

3. (1) The objects and functions of the Provincial Archives shall be to -

(a) preserve public and non-public records with enduring value for use by the public and the State;

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(b) make such records accessible and promote their use by the public;

(c) ensure the proper management and care of all public records;

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(d) collect non-public records with enduring value of provincial significance which cannot be more appropriately preserved by another institution, with due regard to the need to document aspects of the province's experience neglected by archives repositories in the past;

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"Provinsie" die Provinsie Vrystaat;

"publieke rekord" 'n rekord geskep of ontvang deur 'n regeringsliggaam in die uitvoering van sy aktiwiteite;

"regeringsliggaam" enige wetgewende, uitvoerende, regsprekende of administratiewe orgaan van die staat (insluitend 'n statutêre liggaam) op die provinsiale of plaaslike vlak van regering in die Provinsie;

"Raad" die Provinsiale Argiefraad beoog in artikel 6;

"regulasie" 'n regulasie uitgevaardig kragtens hierdie Wet;

"rekord" vasgelegde inligting ongeag die vorm of medium;

"rekordklassifikasiestelsel" 'n klassifikasieplan vir die identifikasie, ordening, berging en herwinning van rekords;

"verantwoordelike Lid" die Lid van die Uitvoerende Raad verantwoordelik vir die uitvoering van hierdie Wet;

"voorskryf" voorskryf by regulasie.

Instelling van die Vrystaatse Provinsiale Argief

2. Hierby word die Vrystaatse Provinsiale Argief as afdeling van die Staatsdiens ingestel.

Doelstellings en werksaamhede van die Provinsiale Argief

3. (1) Die doelstellings en werksaamhede van die Provinsiale Argief is om -

- (a) publieke en nie-publieke rekords wat blywende waarde het vir gebruik deur die publiek en die Staat te bewaar;
- (b) sodanige rekords toeganklik te maak en gebruik daarvan deur die publiek te bevorder;
- (c) die behoorlike bestuur en versorging van alle publieke rekords te verseker;
- (d) nie-publieke rekords met blywende waarde van provinsiale belang wat nie op 'n meer doelmatige wyse deur 'n ander instansie bewaar kan word nie, te versamel, met behoorlike inagneming van die behoefte om aspekte van die provinsie se ervaring wat in die verlede deur argiefbewaarplekke nagelaat is, te dokumenteer;

- (e) promote co-operation and co-ordination between institutions having custody of non-public records with enduring value;
- (f) promote an awareness of archives and records management, and encourage archival and records management activities.

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Provincial Archivist and staff

4. (1) The Provincial Archives shall be managed by a Provincial Archivist appointed by the responsible Member on the basis of relevant experience and an appropriate archival qualification. 10
- (2) The Provincial Archivist shall in the performance of his or her functions be assisted by officers and employees appointed in terms of the Public Service Act, 1994 (Proclamation No 103 of 1994). 15
- (3) (a) The Provincial Archivist may, subject to any conditions, delegate a power or assign a duty to a member of the staff and may at any time cancel such delegation or assignment. 20
- (b) A delegation or assignment shall not divest the Provincial Archivist of the power delegated or duty assigned and he or she may at any time amend or set aside any decision made thereunder, or exercise the power or perform the duty concerned. 25

Powers and duties of Provincial Archivist

5. (1) The Provincial Archivist shall-
- (a) take such measures as are necessary to arrange, describe and retrieve records; 30
- (b) provide information, consultation, research and other services related to records; 35
- (c) require of a person who has made use of records in the custody of the Provincial Archives while researching a publication or dissertation to furnish a copy of the publication or dissertation to the Provincial Archives;
- (d) generally, take such other steps and perform such other acts as may be necessary for or conducive to the achievement of the objects of the Provincial Archives. 40

- (c) samewerking en koördinasie tussen instellings wat beheer uitoefen oor nie-publieke rekords met blywende waarde te bevorder;
- (f) 'n bewustheid van argiewe en rekordbestuur te bevorder, en argivale en rekordbestuursbewustheid aan te moedig.

Provinsiale Argivaris en personeel

- 4. (1) Die Provinsiale Argief word bestuur deur 'n Provinsiale Argivaris aangestel deur die verantwoordelike Lid op die grondslag van tersaaklike ondervinding en 'n toepaslike argiefkwalifikasie.
- (2) Die Provinsiale Argivaris word by die verrigting van sy of haar werksaamhede bygestaan deur beamptes en werknemers aangestel ingevolge die Staatsdienswet, 1994 (Proklamasie No 103 van 1994).
- (3) (a) Die Provinsiale Argivaris kan, onderworpe aan enige voorwaardes, 'n bevoegdheid of plig aan 'n lid van die personeel deleger of opdra, en kan so 'n delegering of opdrag te eniger tyd intrek.
- (b) 'n Delegering of opdrag ontnem die Provinsiale Argivaris nie van die bevoegdheid gedelegeer of plig opgedra nie, en hy of sy kan 'n beslissing daarkragtens gegee te eniger tyd wysig of tersyde stel, of die bevoegdheid of plig self uitoefen of verrig.

Bevoegdhede en pligte van Provinsiale Argivaris

- 5. (1) Die Provinsiale Argivaris moet -
 - (a) die nodige maatreëls tref om rekords te orden, te beskryf en te herwin;
 - (b) inligting, konsultasie, navorsing en ander dienste met betrekking tot rekords voorsien;
 - (c) van 'n persoon wat tydens navorsing vir 'n publikasie of skripsie van rekords in bewaring van die Provinsiale Argief gebruik gemaak het, vereis om 'n kopie van die publikasie of skripsie aan die Provinsiale Argief te verskaf;
 - (d) in die algemeen dié ander stappe doen en dié ander handeling verrig wat nodig of dienstig is ten einde die oogmerke van die Provinsiale Argief te bereik.

(2) The Provincial Archivist may -

- (a) provide training in archival techniques and the management of records;
- (b) co-operate with organisations interested in archival matters or the management of records; 5
- (c) provide professional and technical support in aid of archival activities and the archival community; 10
- (d) make known information concerning records by means such as publications, exhibitions and the lending of records, with special emphasis on activities designed to reach out to less privileged sectors of society.

Establishment, constitution and functions of Provincial Archives Council 15

6. (1) The responsible Member shall by notice in the Provincial Gazette establish a council to be known as the Provincial Archives Council.
- (2) The Council shall consist of the Provincial Archivist and not more than six other members appointed by the responsible Member from among persons who are knowledgeable of or have an interest in archival matters. 20
- (3) The procedures and other conditions for appointment as a member of the Council shall be as prescribed. 25
- (4) The functions of the Council shall be to -
- (a) advise the responsible Member on any matter related to the operation of this Act; 30
 - (b) advise and assist the Provincial Archivist in carrying out the objects and functions of the Provincial Archives;
 - (c) promote the co-ordination of archival policy formulation and planning at provincial level; 35
 - (d) exercise the powers contemplated in sections 12(3) of this Act;
 - (e) approve the appraisal policy of the Provincial Archives and monitor its implementation; 40
 - (f) maintain a provincial list of non-public records in the Province which, in the opinion of the Council, have enduring value.

(2) Die Provinsiale Argivaris kan -

- (a) opleiding in argivale tegnieke en die beheer van rekords voorsien;
- (b) saamwerk met organisasies wat belangstel in argivale aangeleenthede of die bestuur van rekords;
- (c) professionele en tegniese bystand verleen ter ondersteuning van argivale aktiwiteite en die argivale gemeenskap;
- (d) inligting met betrekking tot rekords bekend maak deur middel van publikasies, uitstallings en die uitleen van rekords, met spesiale klem op aktiwiteite wat ontwerp is om uit te reik na minderbevoorregte sektore van die gemeenskap.

Instelling, samestelling en werksaamhede van Provinsiale Argiefraad

6. (1) Die verantwoordelike Lid moet by kennisgewing in die Provinsiale Koerant 'n raad bekend as die Provinsiale Argiefraad instel.

(2) Die Raad bestaan uit die Provinsiale Argivaris en hoogstens ses ander lede aangestel deur die verantwoordelike Lid uit persone wat kundigheid het oor of 'n belangstelling het in argiefaangeleenthede.

(3) Die prosedures en ander voorwaardes vir aanstelling as lid van die Raad is soos voorgeskryf.

(4) Die werksaamhede van die Raad is om -

- (a) die verantwoordelike Lid oor enige aangeleentheid betreffende die werking van hierdie Wet te adviseer;
- (b) die Provinsiale Argivaris te adviseer en te ondersteun in die uitvoering van die oogmerke en werksaamhede van die Provinsiale Argief;
- (c) die koördinering van argivale beleidformulering en -beplanning op provinsiale vlak te bevorder;
- (d) die bevoegdhede beoog in artikel 12(3) van hierdie Wet uit te oefen;
- (e) die keuringsbeleid van die Provinsiale Argief goed te keur en die uitvoering daarvan te monitor;
- (f) 'n provinsiale lys van nie-publieke rekords in die Provinsie te onderhou, wat na die oordeel van die Raad van blywende waarde is.

- (5) The Council may appoint committees from amongst its members and may assign to any committee so appointed such of its functions as it may deem fit: Provided that the Council shall not be divested of any function which it has so assigned and may amend or revoke a decision of such a committee. 5
- (6) The procedure at meetings of the Council and of a committee shall be as prescribed.
- (7) The Council or a committee may co-opt any person to serve on the Council or on a committee, as the case may be, in an advisory capacity, but such a co-opted member shall not have any voting rights. 10
- (8) An ordinary member, or a co-opted member referred to in subsection (7), who is not in the full-time service of the State shall be paid from the funds of the Council such travel and other expenses incurred by him or her in connection with the activities of the Council as the responsible Member may determine with the concurrence of the Member for Finance. 15

Secretary and Staff of Council

7. (1) The work incidental to the performance of the functions of the Council shall, subject to the directions of the Council, be performed by a secretary appointed by the Council on such conditions of service and at such remuneration and service benefits as the responsible Member, with the concurrence of the Member for Finance, may determine. 20 25
- (2) The Secretary may be assisted in the performance of his or her functions by persons appointed by the Council on such conditions of service and at such remuneration and subject to such service benefits as the Council may, with the approval of the responsible Member, granted with the concurrence of the Member for Finance, determine. 30

Funds of Council

8. (1) The funds of the Council shall consist of - 35
- (a) money appropriated by the Provincial Legislature;
- (b) money accruing to the Council from any other source. 40
- (2) The Secretary of the Council shall open an account in the name of the Council with an institution registered as a bank in terms of the Banks Act, 1990 (Act No 94 of 1990), and shall deposit in that account all money received in terms of this section.

- (5) Die Raad kan uit sy geledere komitees aanstel en kan na goeëdunke van sy werksaamhede opdra aan 'n komitee wat aldus aangestel is: Met dien verstande dat die Raad nie ontdoen word nie van 'n werksaamheid wat hy aldus opgedra het, en 'n besluit van so 'n komitee kan wysig of herroep.
- (6) Die prosedure by vergaderings van die Raad en van 'n komitee is soos voorgeskryf.
- (7) Die Raad of 'n komitee kan enigiemand koöpteer om in 'n adviserende hoedanigheid in die Raad of in 'n komitee, na gelang van die geval, te dien, maar so 'n gekoöpteerde lid het geen stemreg nie.
- (8) 'n Gewone lid, of 'n gekoöpteerde lid bedoel in subartikel (7), wat nie in die heeltidse diens van die Staat is nie, word uit die fondse van die Raad dié reis en ander uitgawes betaal wat deur hom of haar in verband met die aktiwiteite van die Raad aangegaan is, wat die verantwoordelike Lid met die instemming van die Lid van Finansies bepaal.

Sekretaris en Personeel van Raad

7. (1) Die werk verbonde aan die verrigting van die werksaamhede van die Raad word, onderworpe aan die voorskrifte van die Raad, verrig deur 'n sekretaris wat deur die Raad aangestel word op die diensvoorwaardes en teen die besoldiging en onderworpe aan die diensvoordele wat die verantwoordelike Lid met die instemming van die Lid van Finansies bepaal.
- (2) Die Sekretaris kan in die verrigting van sy of haar werksaamhede bygestaan word deur persone wat deur die Raad aangestel word op die diensvoorwaardes en teen die besoldiging en onderworpe aan die diensvoordele wat die verantwoordelike Lid met die instemming van die Lid van Finansies bepaal.

Fondse van Raad

8. (1) Die fondse van die Raad bestaan uit -
- (a) geld deur die Provinsiale Wetgewer bewillig;
- (b) geld wat die Raad uit enige ander bron toeval.
- (2) Die Sekretaris van die Raad moet 'n rekening in die naam van die Raad open by 'n instelling wat ingevolge die Bankwet, 1990 (Wet No 94 van 1990), as 'n bank geregistreer is en moet in daardie rekening alle geld stort wat ingevolge hierdie artikel ontvang is.

- (3) The Council shall utilise its funds for the defrayment of expenses incurred in the performance of its functions under this Act.
- (4) The Council shall in each financial year, at a time determined by the responsible Member, submit a statement of the Council's estimated income and expenditure during the following financial year to the responsible Member for approval, granted with the concurrence of the Member for Finance. 5
- (5) The expenses of the Council in a given financial year shall not exceed the total amount approved under subsection (4). 10

Accountability

- 9. (1) The Secretary of the Council shall be the accounting officer of the Council and shall be charged with the accountability in respect of all money received and payments made by the Council. 15
- (2) The accounting officer shall -
 - (a) keep full and correct record of all money received or spent by the Council, and of the assets and liabilities of the Council; 20
 - (b) as soon as possible after the end of the financial year of the Council, draw up annual financial statements which shall, with appropriate details, show money received by the Council and expenditure incurred by the Council and its assets and liabilities at the end of the financial year concerned. 25
- (3) The financial year of the Council shall end on 31 March in each year.
- (4) The records and annual financial statements mentioned in subsection (2), shall be audited by the Auditor General. 30

Annual reports

- 10. (1) The Provincial Archivist shall as soon as practicable after the end of each financial year prepare and furnish to the responsible Member a report on the operations of the Provincial Archives during that financial year, including, without limiting the generality of the foregoing - 35
 - (a) details of income and expenditure; 40
 - (b) a complete list of disposal authorities issued;
 - (c) an account of all cases of unauthorised disposal of public records investigated by the Provincial Archives; and 45

- (3) Die Raad moet sy fondse aanwend ter bestryding van uitgawes aangegaan by die verrigting van sy werksaamhede kragtens hierdie Wet.
- (4) Die Raad moet in elke boekjaar, op die tydstip wat die verantwoordelike Lid bepaal, 'n staat van die Raad se geraamde inkomste en uitgawes gedurende die daaropvolgende boekjaar aan die verantwoordelike Lid voorlê vir sy of haar goedkeuring, wat met die instemming van die Lid van Finansies verleen word.
- (5) Die uitgawes van die Raad in 'n bepaalde boekjaar mag nie die totale bedrag goedgekeur kragtens subartikel (4) oorskry nie.

Rekenpligtigheid

9. (1) Die Sekretaris van die Raad is die rekenpligtige beampte van die Raad en is belas met rekenpligtigheid ten opsigte van alle geld ontvang en betalings gedoen deur die Raad.
- (2) Die rekenpligtige beampte moet -
- (a) volledige en juiste aantekening hou van alle geld ontvang of bestee deur die Raad, en van die bates en laste van die Raad;
- (b) so gou doenlik na die einde van die boekjaar van die Raad, finansiële jaarstate opmaak wat, in gepaste besonderhede, geld deur die Raad ontvang en uitgawes deur die Raad aangegaan en sy bates en laste aan die einde van die betrokke boekjaar aantoon.
- (3) Die boekjaar van die Raad eindig op 31 Maart elke jaar.
- (4) Die aantekeninge en finansiële jaarstate in subartikel (2) vermeld, moet deur die Ouditeur-generaal geouditeer word.

Jaarverslae

10. (1) So gou moontlik na die einde van elke boekjaar moet die Provinsiale Argivaris 'n verslag saamstel en aan die verantwoordelike Lid voorsien oor alle aktiwiteite van die Provinsiale Argief gedurende daardie boekjaar, insluitende, maar sonder om die algemene aard van die voorafgaande te beperk -
- (a) besonderhede van inkomste en uitgawes;
- (b) 'n volledige lys van beskikkingsmagtigings uitgereik;
- (c) 'n verslag van alle gevalle van ongemagtigde beskikking oor publieke rekords wat deur die Provinsiale Argief ondersoek is; en

- (d) an account of all governmental bodies which have failed to comply with provisions of this Act.
- (2) The Council shall as soon as practicable after the end of each financial year, prepare and furnish to the responsible Member a report on its proceedings and activities during that financial year. 5
- (3) The report of the Provincial Archivist and the report of the Council, together with the audited annual financial statements pertaining to the funds of the Council, shall be submitted to the responsible Member, and the responsible Member shall lay them upon the Table in the Provincial Legislature within 15 days after receipt thereof if the Provincial Legislature is then in session, or if the Provincial Legislature is not then in session, within 15 days of the commencement of the next session. 10

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Custody and preservation of records

- 11. (1) The responsible Member may from time to time establish archives repositories under the control of the Provincial Archivist for the custody of records. 20
- (2) Public records identified in a disposal authority as having enduring value shall be transferred to an archives repository when they have been in existence for 20 years: Provided that -
 - (a) no other act of Parliament or the Provincial Legislature requires such records to be kept in the custody of a particular governmental body or person; 25
 - (b) the Provincial Archivist may, after consultation with the head of a governmental body, identify such records which - 30
 - (i) should remain in the custody of a governmental body; or
 - (ii) should be transferred to an archives repository before they have been in existence for 20 years; 35
 - (c) the Provincial Archivist may defer the transfer of any such records; and
 - (d) the Provincial Archivist may grant permission for any public records to be transferred to an archives repository before they have been in existence for 20 years. 40
- (3) The responsible Member may prescribe terms and conditions governing the transfer of records under subsection (2).

(d) 'n verslag van alle regeringsliggame wat versuim het om aan die bepalings van hierdie Wet te voldoen.

(2) Die Raad moet so gou as moontlik na die einde van elke boekjaar 'n verslag saamstel en aan die verantwoordelike Lid voorsien oor sy verrigtinge en aktiwiteite gedurende daardie boekjaar.

(3) Die verslag van die Provinsiale Argivaris en van die Raad, sowel as die geouditeerde finansiële jaarstate wat betrekking het op die geld van die Raad, word aan die verantwoordelike Lid voorgelê, en die verantwoordelike Lid moet dit in die Provinsiale Wetgewer ter Tafel lê binne 15 dae na ontvangs daarvan indien die Provinsiale Wetgewer dan in sessie is, of indien die Provinsiale Wetgewer nie dan in sessie is nie, binne 15 dae na die aanvang van die volgende sessie.

Bewaring en versorging van rekords

11. (1) Die verantwoordelike Lid kan van tyd tot tyd argiefbewaarplesse vir die bewaring van rekords onder die beheer van die Provinsiale Argivaris instel.

(2) Publieke rekords wat in 'n beskikkingsmagtigings geïdentifiseer word as sou dit blywende waarde het, word na 'n argiefbewaarples oorgeplaas wanneer dit 20 jaar oud is: Met dien verstande dat -

(a) geen ander Parlements-wet of wet van die Provinsiale Wetgewer vereis dat sodanige rekords in bewaring van 'n besondere regeringsliggaam of persoon gehou moet word nie;

(b) die Provinsiale Argivaris, na oorleg met die hoof van 'n regeringsliggaam, dié rekords kan identifiseer wat -

(i) in bewaring van 'n regeringsliggaam moet bly; of

(ii) na 'n argiefbewaarples oorgeplaas moet word voordat dit 20 jaar oud is;

(c) die Provinsiale Argivaris die oorplasing van enige publieke rekords kan uitstel; en

(d) die Provinsiale Argivaris toestemming kan verleen dat enige publieke rekords na 'n argiefbewaarples oorgeplaas word voordat dit 20 jaar oud is.

(3) Die verantwoordelike Lid kan bedinge en voorwaardes voorskryf vir die oorplasing van rekords kragtens subartikel (2).

- (4) The Provincial Archivist shall take such measures as are necessary to preserve and restore records.

Access and use

12. (1) Subject to any other act of Parliament or the Provincial Legislature which deals with access to public records - 5
- (a) a public record in the custody of the Provincial Archives shall be available for public access if a period of 20 years has elapsed since the end of the year in which the record came into existence; 10
- (b) access to a public record in respect of which a period of less than 20 years has elapsed since the end of the year in which the record came into existence may be given by the Provincial Archivist upon request. 15
- (2) A non-public record in the custody of the Provincial Archives shall be available for public access subject to any conditions agreed upon at its acquisition in terms of section 14(1) of this Act. 20
- (3) Notwithstanding subsections (1) and (2), the Provincial Archivist may refuse access to a record on the grounds of its fragile condition, provided that there shall be a right of appeal to the Council against the refusal.
- (4) The responsible Member may make regulations as to the admission of the public to archives repositories, the making available of records for public access, and the use of equipment for the making of copies of or extracts from records in the custody of the Provincial Archives. 25

Management of public records

13. (1) Subject to the provisions of this Act, the Provincial Archivist shall be charged with the proper management and care of public records in the custody of governmental bodies. 30
- (2) Without limiting the generality of subsection (1) - 35
- (a) no public record under the control of a governmental body shall be transferred to an archives repository, destroyed, erased or otherwise disposed of without the written authorisation of the Provincial Archivist, issued subject to - 40

- (4) Die Provinsiale Argivaris moet die stappe doen wat nodig is om rekords te bewaar en te restoureer.

Toegang en gebruik

12. (1) Behoudens enige ander Parlements wet of wet van die Provinsiale Wetgewer wat betrekking het op toegang tot publieke rekords -

(a) is 'n publieke rekord in bewaring van die Provinsiale Argief beskikbaar vir openbare toegang indien 'n tydperk van 20 jaar vanaf die einde van die jaar waarin die rekord tot stand gekom het, verloop het;

(b) kan die Provinsiale Argivaris op versoek toegang verleen tot 'n publieke rekord ten opsigte waarvan 'n tydperk korter as 20 jaar vanaf die einde van die jaar waarin die rekord tot stand gekom het, verloop het.

- (2) 'n Nie-publieke rekord in bewaring van die Provinsiale Argief is beskikbaar vir openbare toegang onderhewig aan enige voorwaardes waarop ooreengekom is tydens verkryging ingevolge artikel 14(1) van hierdie Wet.

- (3) Ondanks subartikels (1) en (2) kan die Provinsiale Argivaris toegang tot 'n rekord weier op grond van die swak toestand daarvan, onderhewig aan 'n reg tot appèl na die Raad teen die weiering.

- (4) Die verantwoordelike Lid kan regulasies uitvaardig ten opsigte van die toelating van die publiek tot argiefbewaarplekke, die beskikbaarstelling van rekords vir openbare toegang en die gebruik van toerusting vir die maak van afdrukke van of uittreksels uit rekords in bewaring van die Provinsiale Argief.

Bestuur van publieke rekords

13. (1) Behoudens die bepalings van hierdie Wet is die Provinsiale Argivaris verantwoordelik vir die behoorlike bestuur en versorging van publieke rekords in bewaring van regeringsliggame.

- (2) Sonder om die algemeenheid van subartikel (1) te beperk -

(a) mag geen publieke rekord onder die beheer van 'n regeringsliggaam na 'n argiefbewaarplek oorgeplaas word, vernietig, uitgewis of op enige ander wyse oor beskik word nie sonder die skriftelike magtiging van die Provinsiale Argivaris, wat uitgereik word behoudens -

- (i) section 6(4)(e) of this Act; and
 - (ii) a final ruling by the responsible Member when unresolvable differences arise between the Provincial Archivist and the Council;
 - (b) the Provincial Archivist shall -
 - (i) determine records classification systems to be applied by governmental bodies;
 - (ii) determine the conditions subject to which records may be microfilmed or electronically reproduced; and
 - (iii) determine the conditions subject to which electronic records systems should be managed;
 - (c) the Provincial Archivist shall inspect public records in so far as such inspection may be necessary for the performance of his or her functions under this Act: Provided that the inspection of public records which contain information the disclosure of which is restricted by any other act of Parliament or the Provincial Legislature shall be done only with the consent of the head of the governmental body concerned.
- (3) The responsible Member may make regulations as to the management and care of public records in the custody of governmental bodies.
- (4) The Provincial Archivist may from time to time issue directives and instructions, which shall not be inconsistent with the regulations, as to the management and care of public records in the custody of governmental bodies.
- (5) (a) The head of a governmental body shall, subject to any law governing the employment of personnel of the governmental body concerned and such requirements as may be prescribed, designate an official of the body to be the records manager of the body.
- (b) The records manager shall be responsible to see to it that the governmental body complies with the requirements of this Act.
- (c) Additional powers and functions may be prescribed to a records manager.

(i) artikel 6(4)(c) van hierdie Wet; en

(ii) 'n finale beslissing deur die verantwoordelike Lid wanneer onoplosbare verskille tussen die Provinsiale Argivaris en die Raad ontstaan;

(b) moet die Provinsiale Argivaris -

(i) rekordklassifikasiesistelsels wat deur regeringsliggame toegepas moet word, bepaal;

(ii) die voorwaardes vir die mikroverfilming of elektroniese reproduksie van rekords bepaal; en

(iii) die voorwaardes vir die bestuur van elektroniese rekordstelsels bepaal;

(c) moet die Provinsiale Argivaris publieke rekords inspekteer vir sover sodanige inspeksie nodig is vir die verrigting van sy of haar werksaamhede kragtens hierdie Wet: Met dien verstande dat die inspeksie van publieke rekords wat inligting bevat ten opsigte waarvan die bekendmaking beperk word deur 'n ander Parlements wet of wet van die Provinsiale Wetgewer, slegs gedoen mag word met die toestemming van die hoof van die betrokke regeringsliggaam.

(3) Die verantwoordelike Lid kan regulasies uitvaardig met betrekking tot die bestuur en versorging van publieke rekords in bewaring van regeringsliggame.

(4) Die Provinsiale Argivaris kan van tyd tot tyd voorskrifte en instruksies uitreik, wat nie teenstrydig met die regulasies mag wees nie, met betrekking tot die bestuur en versorging van publieke rekords in bewaring van regeringsliggame.

(5) (a) Die hoof van 'n regeringsliggaam moet, onderhewig aan enige wet wat die indiensstelling van personeel van die betrokke regeringsliggaam reël en sodanige vereistes as wat voorgeskryf word, 'n beampte van die liggaam aanwys as rekordbestuurder van die liggaam.

(b) Die rekordbestuurder is daarvoor verantwoordelik om toe te sien dat die regeringsliggaam aan die vereistes van hierdie Wet voldoen.

(c) Bykomende bevoegdhede en werksaamhede kan vir 'n rekordbestuurder voorgeskryf word.

Acquisition and management of non-public records

14. (1) The Provincial Archivist may on behalf of the State acquire by purchase or donation or on loan for a temporary period or in perpetuity, either unconditionally or subject to such conditions as may be agreed upon, non-public records which, in his or her opinion, have enduring value of provincial significance and which are not more appropriately preserved by another institution. 5
- (2) Subject to any such conditions as may be applicable, non-public records acquired under subsection (1) shall be deposited in the archives repository determined by the Provincial Archivist. 10
- (3) No person or institution having non-public records in their custody which are recorded on the provincial list referred to in section 6(4)(f) shall destroy, export or otherwise dispose of such records without - 15
- (a) reporting to the Council their intention to so dispose of such records at least 90 days in advance of such action; and
- (b) securing the approval of the Council for such action. 20

Limitation of liability

15. No person, including the State, shall be liable in respect of anything done under this Act in good faith and without negligence. 25

Offences and penalties

16. (1) Any person who - 30
- (a) wilfully damages any public or non-public record in the control of a governmental body; or
- (b) otherwise than in accordance with this Act or any other law, removes, destroys or erases such record, 35
- shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years or both such fine and imprisonment.
- (2) Any person who fails to comply with section 14(3) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000. 40
- (3) The Provincial Archivist may refuse to allow any person convicted of an offence in terms of subsection (1) access to an archives repository for such period as he or she may deem fit, subject to an appeal to the responsible Member. 45

Verkryging en bestuur van nie-publieke rekords

14. (1) Die Provinsiale Argivaris kan deur middel van aankoop of skenking of in bruikleen, hetsy tydelik of permanent, hetsy onvoorwaardelik of op die voorwaardes waarop ooreengkom word, namens die Staat nie-publieke rekords verkry wat na sy of haar mening blywende waarde van provinsiale betekenis het en nie op 'n meer doelmatige wyse deur 'n ander instansie bewaar word nie.
- (2) Behoudens die voorwaardes wat van toepassing kan wees, moet nie-publieke rekords wat kragtens subartikel (1) verkry is, geplaas word in die argiefbewaarplek wat die Provinsiale Argivaris bepaal.
- (3) Geen persoon of instansie wat nie-publieke rekords in bewaring het wat in die provinsiale lys beoog in artikel 6(4)(f) aangeteken is, mag sulke rekords vernietig, uitvoer of op 'n ander wyse daaroor beskik nie sonder om -
- (a) die voorneme om aldus oor sodanige rekords te beskik minstens 90 dae voor die uitvoering van die handeling aan die Raad te rapporteer nie; en
- (b) die toestemming van die Raad vir so 'n handeling te verkry nie.

Beperking van aanspreeklikheid

15. Niemand, met inbegrip van die Staat, is aanspreeklik ten opsigte van enigiets wat te goeder trou en sonder nalatigheid kragtens hierdie Wet gedoen is nie.

Misdrywe en strawwe

16. (1) Iemand wat -
- (a) opsetlik enige publieke of nie-publieke rekord onder die beheer van 'n regeringsliggaam beskadig; of
- (b) so 'n rekord anders as ooreenkomstig hierdie Wet of enige ander wet verwyder, vernietig of uitwis,
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met beide daardie boete en gevangenisstraf.
- (2) Iemand wat versuim om te voldoen aan artikel 14(3) is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000.
- (3) Die Provinsiale Argivaris kan vir die tydperk wat hy of sy goedvind, weier om aan iemand wat aan 'n misdryf ingevolge subartikel (1) skuldig bevind is, toegang tot 'n argiefbewaarplek te verleen, onderworpe aan 'n appèl na die verantwoordelike Lid.

Regulations

17. The responsible Member may make regulations as to any matter which in terms of this Act is required or permitted to be prescribed or done by regulation, and, generally, with reference to any matter which is necessary or expedient to be prescribed in order to achieve or promote the objects of this Act.

5

Repeal of Laws

18. The following laws are hereby repealed:

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(1) (a) Archives Act, 1977 (Act No 11 of 1977) of the former Bophuthatswana;

(b) Qwaqwa Archives Act, 1986 (Act No 6 of 1986).

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- (2) Anything done or deemed to have been done in terms of a provision of a law repealed by subsection (1), and which may or shall be done in terms of this Act, shall be deemed to have been done in terms of the corresponding provision of this Act.

20

Short title and commencement

19. This Act shall be called the Free State Provincial Archives Act, 1999.

Regulasies

17. Die verantwoordelike Lid kan regulasies uitvaardig aangaande enige aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf of gedoen moet of kan word, en, in die algemeen, met betrekking tot enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik of te bevorder.

Herroeping van wette

18. Die volgende wette word hierby herroep:

(1) (a) Wet op Argiewe, 1977 (Wet No 11 van 1977) van die voormalige Bophuthatswana;

(b) Qwaqwa Wet op Argiewe, 1986 (Wet No 6 van 1986).

(2) Enigiets wat ingevolge 'n bepaling van 'n wet wat by subartikel (1) herroep word, gedoen is of geag word gedoen te gewees het en wat ingevolge hierdie Wet gedoen kan of moet word, word geag ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te gewees het.

Kort titel en inwerkingtreding

19. Hierdie Wet heet die Wet op die Vrystaat Provinsiale Argief, 1999.

PROVINSIALE KOERANT

(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beampste Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie. Indien eksemplare van die Provinsiale Koerant verlang word, moet R4,70 vir elke eksemplaar gestuur word.

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Die intekengeld vir die Provinsiale Koerant (insluitend alle Buitengewone Provinsiale Koerante) is soos volg:

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Prys per los eksemplaar (posvry).....	R 4,70

Seëls word nie aanvaar nie.

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Alle advertensies moet die Beampste Belas met die Provinsiale Koerant bereik nie later as 12:00 sewe werksdae voordat die Koerant uitgegee word. Advertensies wat na daardie tyd ontvang word, word oorgehou vir publikasie in die uitgawe van die volgende week, of as die adverteerder dit verlang, sal dit in die Koerant wat op die pers is as 'n "Laat Advertensie" geplaas word. In sulke gevalle moet die advertensie aan die Beampste oorhandig word nie later as 10:30 op die Donderdag van die week voordat die Koerant gepubliseer word en dubbeltarief sal vir dié advertensie gevra word.

'n "Laat Advertensie" sal nie sonder definitiewe instruksies van die Adverteerder as sodanige geplaas word nie.

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Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R2,00 per sentimeter of deel daarvan, enkelkolom.

Advertensiegelde is vooruitbetaalbaar aan die Beampste belas met die Provinsiale Koerant, Posbus 517, Bloemfontein 9300.

Gedruk en uitgegee deur die Vrystaatse Provinsiale Administrasie

PROVINCIAL GAZETTE

(Published every Friday)

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