



**Isle of Man**

*Ellan Vannin*

**AT 8 of 1999**

**PUBLIC RECORDS ACT 1999**





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## PUBLIC RECORDS ACT 1999

### Index

Section	Page
1 The Public Record Office .....	5
2 Fees .....	7
3 Selection and preservation of public records.....	7
4 Access to public records.....	8
5 Legal validity of public records etc .....	10
6 Deposit of records of Central Registry in the Record Office .....	10
7 Destruction of records in Record Office .....	11
8 Interpretation.....	11
9 Short title etc.....	12
 <b>SCHEDULE 1</b>	 <b>13</b>
<b>FUNCTIONS IN RELATION TO RECORDS OF LEGISLATURE</b>	<b>13</b>
 <b>SCHEDULE 2</b>	 <b>14</b>
<b>PUBLIC RECORDS</b>	<b>14</b>
 <b>SCHEDULE 3</b>	 <b>17</b>
<b>AMENDMENTS OF ENACTMENTS</b>	<b>17</b>
 <b>SCHEDULE 4</b>	 <b>17</b>
<b>ENACTMENTS REPEALED</b>	<b>17</b>
 <b>ENDNOTES</b>	 <b>19</b>
<b>TABLE OF LEGISLATION HISTORY</b>	<b>19</b>
<b>TABLE OF RENUMBERED PROVISIONS</b>	<b>19</b>
<b>TABLE OF ENDNOTE REFERENCES</b>	<b>19</b>



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## PUBLIC RECORDS ACT 1999

<i>Received Royal Assent:</i>	<i>13 July 1999</i>
<i>Passed:</i>	<i>13 July 1999</i>
<i>Commenced:</i>	<i>1 April 2000</i>

**AN ACT** to establish a Public Record Office; to make provision for public records; and for connected purposes.

### 1 The Public Record Office

- (1) The public record office maintained by the Chief Registrar under this section as originally enacted continues to exist.

In this Act “the Record Office” means the public record office.

- (2) Responsibility for maintaining the Record Office transfers from the Chief Registrar to the Registrar General upon the coming into operation of paragraph 48 of the Schedule to the *Central Registry Act 2018* (being the provision which substitutes this section for that originally enacted).<sup>1</sup>
- (3) The Registrar General must take all reasonable steps to preserve records under his or her charge under this Act.

For the sake of clarity, the duty under this subsection extends to records which are transferred or held elsewhere by virtue of subsection (8) or section 3(6).

- (4) The Registrar General may do anything that appears to the Registrar General to be necessary or expedient to maintain the utility of the Record Office.
- (5) The Registrar General may, in particular, do any of the following —
- (a) compile and make available indices, guides and other finding aids to, and calendars and texts of, the records in the Record Office;
  - (b) prepare publications concerning the activities of and facilities provided by the Record Office;
  - (c) regulate the conditions under which members of the public may inspect public and other records or use the other facilities of the Record Office;

- (d) provide for the making and authentication of copies of and extracts from records required as evidence in legal proceedings or for other purposes;
  - (e) accept responsibility for the safe keeping of records other than public records;
  - (f) provide for the copying of records by microfilming or otherwise or into an electronic form, and for access to such copies by the use of electronic or other devices;
  - (g) make arrangements for the separate housing of films and other records which have to be kept under special conditions;
  - (h) lend records, for display at commemorative exhibitions or for other special purposes;
  - (i) acquire records and accept gifts and loans of records;
  - (j) provide, or arrange for the provision of, facilities for the repair and conservation of records;
  - (k) provide works of reference to facilitate the inspection or use of public records.
- (6) The Public Services Commission, the Department and the Registrar General must secure that the staff of the Records Office includes suitably qualified persons.
- (7) Sections 6 to 10 apply, in the same way as they apply to the Record Office, to, —
- (a) the Manx Museum, in relation to public records deposited there; and
  - (b) any repository specified in a direction under subsection (8), in relation to any public records of a class or description specified in the direction.
- (8) The Registrar General may direct that public records or public records of a specified class or description, may be deposited in any record office, library or other repository which the Registrar General is satisfied is a suitable place for the deposit of public records, subject to such terms and conditions as may be contained in the direction.
- (9) Before giving a direction which would result in the deposit of records outside the Island the Registrar General must be satisfied that reasonable facilities will be afforded to the public in the Island to enable them to access the information contained within those records.
- (10) The Registrar General and the person or body maintaining any repository mentioned in subsection (7)(a) or (b) may make arrangements for the transfer of any public records held in the Record Office to that repository, or the transfer of any public records held in that repository to the Record Office, subject to such terms and conditions as may be agreed.

This subsection does not limit the power to include terms and conditions in a direction under subsection (8).<sup>2</sup>

## **2 Fees**

- (1) The Treasury may by order prescribe the fees which may be charged for copies of records kept in the Record Office (including certified copies or extracts from such records) and for other services afforded by officers of the Record Office, and authorise the remission of the fees in prescribed cases.
- (2) Fees received under this section shall be paid into the general revenue of the Island.

## **3 Selection and preservation of public records**

- (1) It shall be the duty of every person responsible for public records of any description which are not in the Record Office —
  - (a) to take reasonable steps for the safe-keeping of those records pending the making of arrangements under paragraph (b); and
  - (b) to make arrangements with the Registrar General for the selection from them of such records as ought to be permanently preserved and for their safe-keeping.<sup>3</sup>
- (2) The Registrar General shall be responsible for guiding, co-ordinating and supervising all action taken under this section, and in particular for determining the place of deposit of any records to be permanently preserved.<sup>4</sup>
- (3) For the purpose of the exercise of his functions under this section, the Registrar General, or any officer of the Record Office authorised by him for the purpose, may at any time inspect and examine any public records, notwithstanding any confidence, privilege or statutory restriction.<sup>5</sup>
- (4) Subject to the following provisions of this section, public records selected for permanent preservation under this section shall be transferred to the Record Office not later than the end of the prescribed period after their creation.
- (5) Any records may be retained after the end of the prescribed period after their creation if —
  - (a) in the opinion of the person who is responsible for them, they are required for administrative purposes or ought to be retained for any other special reason, and
  - (b) the Council of Ministers has been informed of the facts and given its approval.
- (6) The Registrar General may, if it appears to him in the interests of the proper administration of the Record Office, direct that the transfer of any

class of records under this section shall be suspended until arrangements for their reception have been completed.<sup>6</sup>

- (7) Where, following the arrangements made in pursuance of this section, public records have been rejected as not required for permanent preservation —
  - (a) the Registrar General may retain them for such period and subject to such conditions as he may think fit;<sup>7</sup>
  - (b) subject to paragraph (a), they shall be destroyed or disposed of in some other way.
- (8) The Registrar General may maintain, otherwise than as part of the Record Office, accommodation for the safe-keeping of —
  - (a) public records pending the selection from them of records for permanent preservation; and
  - (b) records retained under subsection (7)(a).<sup>8</sup>
- (9) Any question as to the person whose duty it is to make arrangements under this section with respect to any class of public records shall be referred to and determined by the Council of Ministers.
- (10) At the request of a person by whom any records have been transferred to the Record Office under this section, or the successor of such a person, the Registrar General shall temporarily return such records to him, for such period and subject to such conditions as may be agreed or, in default of agreement, determined by the Council of Ministers.<sup>9</sup>
- (11) In this section “the prescribed period” means —
  - (a) 25 years, or
  - (b) such other period as the Council of Ministers may by order prescribe, either generally or as respects any particular class of public records.
- (12) Schedule 1 shall have effect with respect to the exercise of functions under this section and section 4 in relation to records referred to in paragraph 2 of Schedule 2.

#### **4 Access to public records**

- (1) Subject to the following provisions of this section, it shall be the duty of the Registrar General to arrange that reasonable facilities are available to the public for inspecting and obtaining copies of public records in the Record Office.<sup>10</sup>
- (2) Public records in the Record Office shall not be available for public inspection until the expiry of the prescribed period, subject to subsection (2A).<sup>11</sup>
- (2A) Subsection (2) does not apply to —

- (a) records to which members of the public had access before the commencement of this Act;
  - (b) records to which members of the public had access before their transfer to the Record Office; or
  - (c) records transferred to the Record Office under section 6(1).<sup>12</sup>
- (3) If it appears to the appropriate person that any public records to which subsection (2) applies that they –
  - (a) are subject to a statutory restriction, or
  - (b) contain information which was obtained from members of the public under such conditions that the opening of those records to the public after the prescribed period would or might constitute a breach of good faith on the part of the Government or of the persons who obtained the information,he shall notify the Registrar General accordingly.<sup>13</sup>
- (4) Where a notification is given under subsection (3)(b), the records in question shall not be available in the Record Office for public inspection even after the expiration of the prescribed period except in such circumstances and subject to such conditions, if any, as the Council of Ministers may approve, or, if the Council of Ministers thinks fit, after the expiration of such further period as it may approve.
- (5) The Registrar General may give such reasonable directions as he thinks fit to the person or body managing any repository referred to in section 1(7)(a) or (b) as to the provision of facilities for public access under this section to any public records for the time being kept there, and (subject to subsection (6)) it shall be the duty of that person to comply with any such directions.<sup>14</sup>
- (6) Any question as to the reasonableness of any direction under subsection (5) shall be referred to and determined by the Council of Ministers.
- (7) Nothing in this section shall be construed as granting any right to inspect public records or any part of them which appear to the Registrar General to be in danger of damage through inspection by the public; but where any records are withheld from inspection by the public by virtue of this subsection the Registrar General shall, if possible, make copies of them available for inspection by the public.<sup>15</sup>
- (8) Subsection (2) does not make it unlawful for the Registrar General to permit a person to inspect any records if he has obtained special authority for the purpose given by an officer of a Department or other body, being an officer appearing to the Registrar General as qualified to give such an authority.<sup>16</sup>
- (9) The foregoing provisions of this section are subject to –

- (a) any statutory restriction; and
- (b) section 5(5) of the *Manx Museum and National Trust Act 1959* (opening hours of Manx Museum).

(10) In this section —

“the appropriate person” means —

- (a) in relation to any public records which have been selected under section 3 for permanent preservation, the person responsible for those records;
- (b) in relation to any other records to which subsection (2) applies, the person or body by whom or on whose behalf they were deposited in the Record Office or, if that person or body has ceased to exist, the Chief Secretary;

“the prescribed period”, in relation to any public records, means —

- (a) 30 years, or
- (b) such other period as the Council of Ministers may by order prescribe, either generally or as respects any particular class of public records,

beginning with the 1st January in the year following that in which the records were created.

## 5 Legal validity of public records etc

- (1) The legal validity of any record shall not be affected by its removal under the provisions of this Act.
- (2) A copy of or extract from a public record in the Record Office purporting —
  - (a) to be certified as a true copy or extract thereof by or on behalf of the Registrar General and to be sealed or stamped with the seal of the Record Office, or<sup>17</sup>
  - (b) to be certified as a true copy or extract thereof by or on behalf of the officer in charge of a repository mentioned in section 1(6),

shall be admissible as evidence in any proceedings without any further or other proof thereof if the original record would have been admissible as evidence in those proceedings.

## 6 Deposit of records of Central Registry in the Record Office<sup>18</sup>

- (1) The Registrar General may transfer to the Record Office any records held, filed or deposited in the Central Registry; on transfer the records become public records for the purpose of this Act.<sup>19</sup>
- (2) The Registrar General must secure that the same facilities are afforded for inspecting and taking copies of any records transferred under

subsection (1) as would have been afforded had they not been transferred to Record Office.<sup>20</sup>

- (3) Section 4(5) and (6) applies to facilities for inspecting and taking copies of records for the time being kept in a repository referred to in section 1(5)(a) or (b) as it applies to facilities for public access under section 4.
- (4) Where any private documents have remained in the custody of a court for more than 25 years without being claimed, the Chief Registrar may, with the approval of the Clerk of the Rolls, transfer the documents to the Record Office and thereupon the documents shall become public records for the purposes of this Act.
- (5) [Repealed]<sup>21</sup>
- (6) Any records transferred to the Manx Museum pursuant to section 45 of the *Registration of Deeds Act 1961* shall be deemed to have been so transferred pursuant to subsection (1) (as applied by section 1(5)).

## 7 Destruction of records in Record Office

- (1) If, as respects any public records in the Record Office, it appears to the Registrar General –
  - (a) that they are duplicated by other public records which have been selected for permanent preservation, or
  - (b) that there is some other special reason why they should not be permanently preserved,he may, with the approval of the Department, Statutory Board, authority or officer, if any, who appears to him to be primarily concerned with those records, or with public records of the class in question, authorise either the destruction of those records or their disposal in any other way.<sup>22</sup>
- (2) Subsection (1) does not apply to documents to which section 2 of the *Companies Act 1961* applies.

## 8 Interpretation

- (1) In this Act –
  - “**the General Registry**” includes every department or office transferred to the General Registry by virtue of the *General Registry Act 1965*;
  - “**public records**” has the meaning given by Schedule 2;
  - “**the Record Office**” means the public record office maintained under section 1;
  - “**records**” includes not only written documents but also records conveying information by any other means whatsoever;

“**statutory restriction**” means a prohibition or restriction on the disclosure of information obtained from the public which is imposed by any statutory provision, whenever made.

- (2) Where records 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 them was created.

## **9 Short title etc**

- (1) This Act may be cited as the Public Records Act 1999.
- (2) This Act shall come into operation on such day or days as the Council of Ministers may by order appoint.<sup>23</sup>
- (3) [Repealed]<sup>24</sup>
- (4) No order under this Act (except an order under subsection (2)) shall have effect unless it is approved by Tynwald.
- (5) The enactments specified in Schedule 3 are amended in accordance with that Schedule.
- (6) The enactments specified in Schedule 4 are repealed to the extent specified in column 3 of that Schedule.

## Schedule 1

### FUNCTIONS IN RELATION TO RECORDS OF LEGISLATURE

#### Section 3(12)

##### *Committee of legislative body*

1. Tynwald, the Council or the Keys may appoint a committee to exercise functions under sections 3 and 4 in relation to the records of Tynwald, the Council or the Keys, as the case may be.

##### *Exercise of functions in relation to records*

2. Where a committee of Tynwald, the Council or the Keys has been appointed under paragraph 1, references in sections 3 and 4 to the Council of Ministers shall, in relation to records of that body, be construed as references to that committee.

##### *Orders made by committees*

3. Where an instrument purports to be an order made for the purposes of the definition of “prescribed period” in section 3(11) or 4(10) by a committee appointed under paragraph 2, it shall be presumed, until the contrary is proved, that the committee was duly appointed and that at the material time the signatories of the instrument were members of the committee.

##### *Interpretation*

4. For the purposes of this Schedule —

- (a) references to records of Tynwald shall be construed as including references to records of any committee of Tynwald and of a joint committee of the Council and the Keys, and administrative and departmental records of the Clerk of Tynwald and any other officer of Tynwald;
- (b) references to records of the Council shall be construed as including references to records of any committee of the Council, and administrative and departmental records of the Clerk of the Council and any other officer of the Council;
- (c) references to records of the Keys shall be construed as including references to records of any committee of the Keys, and administrative and departmental records of the Secretary of the Keys and any other officer of the Keys.

## Schedule 2

### PUBLIC RECORDS

#### Section 8(1)

#### *Definition of public records*

1. Subject to section 6, this Schedule shall have effect for determining what are public records for the purposes of this Act.

#### *Parliamentary records*

2. (1) The records of —  
(a) Tynwald, the Council and the Keys, and  
(b) any committee of Tynwald, the Council or the Keys (including a joint committee of the Council and the Keys),

shall be public records.

(2) The administrative and departmental records of the Clerk of Tynwald, the Clerk of the Council, the Secretary of the Keys and any other officer of Tynwald, the Council or the Keys shall be public records.

#### *Central government records*

3. (1) Subject to sub-paragraph (3), administrative and departmental records belonging to Her Majesty in right of the Island, and in particular —

- (a) records of the office of the Lieutenant Governor;
- (b) records of the Council of Ministers, and of any committee of the Council of Ministers;
- (c) records of, or held in, any department of the Government; and
- (d) records of any office, commission, body or establishment whatsoever under the Government,

shall be public records.

(2) The administrative and departmental records of the Attorney General shall be public records.

(3) Sub-paragraph (1)(a) does not apply to records of the office of the Lieutenant Governor which relate to Her Majesty or members of the Royal Family or the Royal Household.

(4) Sub-paragraph (1)(a) does not apply to records of the office of the Lieutenant Governor —

- (a) in the custody of the Lieutenant Governor immediately before the commencement of this Act; or
- (b) created after the commencement of this Act,

unless the Lieutenant Governor otherwise directs in the case of any particular records or description of records.

(5) Sub-paragraph (1) does not apply to records of any description filed or deposited in the General Registry pursuant to any statutory provision and for the time being held in the General Registry, other than records transferred to the Record Office pursuant to section 6(1).

*Records of Departments and other public bodies*

4. (1) Without prejudice to paragraph 3(1), the administrative and departmental records of the following bodies shall be public records –

- (a) Departments;
- (b) Statutory Boards;
- (c) Boards of Tynwald;
- (d) the Finance Board;
- (e) the Public Services Commission (including any Whitley Council for the public service);<sup>25</sup>
- (f) local authorities;
- (g) joint boards established under the *Local Government Act 1985* or any other enactment (including any combined authority established under any Act repealed by that Act);
- (h) any committee of, or appointed by, any body referred to in (a) to (g) above;
- (i) the Manx Museum and National Trust;
- (j) the Manx Heritage Foundation;
- (k) the Isle of Man Constabulary;
- (l) any body specified in an order made by the Council of Ministers for the purpose of this paragraph.

(2) Subject to paragraph 6, sub-paragraph (1) does not apply to records in any museum or library –

- (a) held on loan from any person or body not mentioned in paragraph 2, 3(1) or (2) or 5 or sub-paragraph (1); or
- (b) forming part of its permanent collections (that is, acquired by the museum or library otherwise than by transfer from or arrangements with any such person or body),

unless they fall within paragraph 2, 3 or 5.

(3) Sub-paragraph (1) does not apply to criminal records held by the Isle of Man Constabulary.

*Records of courts etc.*

5. (1) Records of every court or tribunal (by whatever name called) held in the Island, other than —

- (a) courts-martial;
- (b) naval courts held under Part VI of the Merchant Shipping Act 1894 (an Act of Parliament);
- (c) ecclesiastical courts;

shall be public records.

(2) In this paragraph “records” includes records of any proceedings in the court or tribunal in question and includes rolls, writs, books, decrees, bills, orders, warrants and accounts of, or in the custody of, the court or tribunal in question.

*Records in Manx Museum*

6. (1) The records which at the commencement of this Act are in the Manx Museum shall be public records.

(2) Sub-paragraph (1) —

- (a) applies to records of any description filed or deposited in the General Registry pursuant to any statutory provision and for the time being held in the Manx Museum, but
- (b) does not apply to records —
  - (i) held on loan from any person or body not mentioned in paragraph 2, 3(1) or (2), 4(1) or 5; or
  - (ii) forming part of the permanent collections of the Manx Museum (that is, acquired otherwise than by transfer from or arrangements with any such person or body),unless they fall within paragraph 2, 3 or 5.

*Alteration of definition*

7. (1) Without prejudice to paragraph 4(1)(k), the Council of Ministers may by order direct that —

- (a) any description of records not falling within paragraphs 1 to 6 shall be treated as public records, or
- (b) any description of records falling within those paragraphs shall not be so treated.

(2) An order under sub-paragraph (1)(a) shall not apply to any records falling within paragraph 3(3) or (4)(a) or (b).

*Interpretation*

8. (1) Any description of a department, board, office, commission, court, tribunal or other body by reference to which a class of public records is framed extends to a department, board, office, commission, court, tribunal or body which has ceased to exist, whether before or after the commencement of this Act.

(2) Where, by virtue of any statutory provision made after the commencement of this Act, any statutory undertaking formerly carried on by a Department, Statutory Board, local authority or joint board ("the transferor") is carried on by a body which is not a Department, Statutory Board, local authority or joint board, the administrative and departmental records of the transferor relating to that undertaking shall not thereby cease to be public records.

**Schedule 3****AMENDMENTS OF ENACTMENTS**

## Section 9(5)

[Sch 3 amends the following Acts —

Manx Museum and National Trust Act 1959 q.v.

Companies Act 1961 q.v.

Town and Country Planning Act 1981 q.v.

Copyright Act 1991 q.v.

Town and Country Planning Act 1999 q.v.]

**Schedule 4****ENACTMENTS REPEALED**

## Section 9(6)

[Sch 4 repeals the following Acts in part —

Manx Museum and National Trust Act 1959

Registration of Deeds Act 1961

Companies Act 1961

Statute Law Revision Act 1981.]



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Editorial Note: Paragraph 48 of the Schedule to the Central Registry Act 2018 in operation 01/07/2019 (see SD2019/0223).

<sup>2</sup> S 1 substituted by Central Registry Act 2018 Sch.

<sup>3</sup> Para (b) amended by Central Registry Act 2018 Sch.

<sup>4</sup> Subs (2) amended by Central Registry Act 2018 Sch.

<sup>5</sup> Subs (3) amended by Central Registry Act 2018 Sch.

<sup>6</sup> Subs (6) amended by Central Registry Act 2018 Sch.

<sup>7</sup> Para (a) amended by Central Registry Act 2018 Sch.

<sup>8</sup> Subs (8) amended by Central Registry Act 2018 Sch.

<sup>9</sup> Subs (10) amended by Central Registry Act 2018 Sch.

<sup>10</sup> Subs (1) amended by Central Registry Act 2018 Sch.

<sup>11</sup> Subs (2) substituted by Central Registry Act 2018 Sch.

<sup>12</sup> Subs (2A) inserted by Central Registry Act 2018 Sch.

<sup>13</sup> Subs (3) amended by Central Registry Act 2018 Sch.

<sup>14</sup> Subs (5) amended by Central Registry Act 2018 Sch.

<sup>15</sup> Subs (7) amended by Central Registry Act 2018 Sch.

<sup>16</sup> Subs (8) amended by Central Registry Act 2018 Sch.

<sup>17</sup> Para (a) amended by Central Registry Act 2018 Sch.

<sup>18</sup> S 6 heading substituted by Central Registry Act 2018 Sch.

<sup>19</sup> Subs (1) substituted by Central Registry Act 2018 Sch.

<sup>20</sup> Subs (2) substituted by Central Registry Act 2018 Sch.

<sup>21</sup> Subs (5) repealed by Central Registry Act 2018 Sch.

<sup>22</sup> Subs (1) amended by Central Registry Act 2018 Sch.

<sup>23</sup> ADO (whole Act) 1/4/2000 (SD111/00).

<sup>24</sup> Subs (3) repealed by Central Registry Act 2018 Sch.

<sup>25</sup> Item (e) amended by Public Services Commission Act 2015 Sch.