

Western Cape, South Africa

Provincial Archives and Records Service of the Western Cape Act

Regulations relating to the Provincial Archives and Records Service of the Western Cape

Provincial Notice 122 of 2006

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Western Cape South Africa

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Regulations relating to the Provincial Archives and Records Service of the Western Cape

Provincial Notice 122 of 2006

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The Minister in the Western Cape Provincial Cabinet responsible for cultural affairs has, in terms of section 21 of the Provincial Archives and Records Service of the Western Cape Act, 2005 ([Act 3 of 2005](#)), made the regulations set out in the Schedule to this notice.

Part I – Definitions

In these regulations any term to which a meaning has been assigned by the Provincial Archives and Records Service of the Western Cape Act, 2005 shall have the meaning so assigned to it and, unless the context otherwise indicates—

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

"The Head of the Service" means the Head of the Service appointed in terms of section 4 of the Act;

"records manager" means the official appointed as the records manager of a governmental body in terms of section 9(5) of the Act;

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

"the Act" means the Provincial Archives and Records Service of the Western Cape Act, 2005 ([Act 3 of 2005](#));

"transfer" means the transfer of public records from a governmental body into the custody of an archives repository in terms of section 6(2) and 9(2)(a) of the Act;

"transfer list" means a list referred to in regulation 4(a)(i); and

"user" means a member of the public or a staff member consulting records in an archives repository.

Part II – Transfer of public goods

2.

Subject to section 6(2)(a) of the Act, the transfer of public records from governmental bodies into the custody of an archives repository may take place on the initiative of either the Head of the Service or the head of the governmental body under whose control those records fall.

3.

The Head of the Service may enter into an agreement with the head of a governmental body for the planned and systematic transfer of public records from such a body into the custody of the Service.

4.

When a governmental body wishes to transfer public records to an archives repository, the head of such a body must submit a written request to do so to the head of the archives repository concerned, subject to the following conditions:

- (a) Where records are covered by a disposal authority, this request must include—
 - (i) a duplicate transfer list of such records in which each item is identified by a reference number, a description of the records and the opening and closing dates of the records; and
 - (ii) an indication of the extent of such records in linear metres.
- (b) Where such records are not covered by a disposal authority, this request must include—
 - (i) a summarised identification of such records by type, period and office of origin;
 - (ii) an indication of the nature of the records classification system, whether such system was approved by the Head of the Service, and whether such system is still in use; and
 - (iii) an indication of the extent of such records in linear metres.
- (c) The Head of the Service may not consider the transfer of records not covered by a disposal authority except in extraordinary circumstances.

5.

A governmental body may transfer public records to an archives repository only after receiving written authorisation to do so from the head of such repository. A written authorisation referred to in section 9(2) (a) of the Act may provide specific instructions to be followed by the governmental body.

6.

In addition to any special condition which may apply to any transfer of public records—

- (a) the public records concerned must be deposited in the archives repository determined by the Head of the Service;
- (b) the public records concerned must be ordered precisely in accordance with the transfer list contemplated in regulation 4(a)(i);
- (c) containers or packages used for the transfer must be clearly labelled in the sequence determined by the transfer list; and
- (d) receipt of the transfer must be acknowledged by the despatch to the governmental body concerned on an endorsed copy of the transfer list.

7.

Subject to such conditions as the head of an archives repository may determine, public records in the custody of the Service may be returned temporarily to the governmental body, or such body's legal successor, which transferred them to the Service; provided that—

- (a) those records must be returned to the archives repository concerned within sixty days of the date of the receipt referred to in regulation 6(d), unless the head of that repository has authorised an extended period in writing; and
- (b) the head of an archives repository may determine terms and conditions other than those provided for in regulation 7(a).

8.

All costs relating to the transfer and temporary return of public records as provided for in regulations 2 to 7 are for the account of the governmental body transferring the records to or borrowing the records from the Service.

Part III – Access and use

9.

The consultation of records in an archives repository must take place in the reading rooms of that repository.

10.

Any member of the public may be admitted to the strongrooms of an archives repository with the approval of the head of such repository and subject to the conditions determined by such head.

11.

Any member of the public admitted to a strongroom or other place in an archives repository where records are stored, processed or consulted, must not eat, drink, smoke, strike a match, use a lighter, or carry any bag, receptacle or any other container, or any other objects or substances, which in the opinion of the head of the archives repository concerned, may endanger records or other users.

12.

The head of the archive repository may require a user to—

- (a) present his or her identity document or passport;
- (b) record the following in the repository's user register—
 - (i) the subject of his or her research;
 - (ii) the purpose of the research;
 - (iii) his or her permanent residential address; and
 - (iv) such other information as the head of the archives repository may require;
- (c) notify the head of any subsequent changes to the information contemplated in paragraph (b); and
- (d) sign the repository's user register.

13.

- (1) The head of the archive repository may deny a user access to a reading room—
 - (a) if a user fails to comply with or contravenes any provision of these regulations; or
 - (b) on account of that user's persistent improper conduct.
- (2) Such denial of access must as soon as possible be reported in writing to the Head of the Service.

14.

Reading rooms of archives repositories will be open to users at such time as the Head of the Service determines.

15.

A user must write and sign his or her name in a register provided for that purpose every day on which records are consulted.

16.

A user must request the delivery of records to a reading room for consultation by completing a form, following a procedure and during times determined by the head of the Service.

17.

The head of the archive repository must determine the number of records which may be consulted simultaneously by a user.

18.

- (1) When consulting records a user must observe all instructions pertaining to the handling of records determined by the head of the archive repository.
- (2) Without limiting the generality of subregulation (1)—
 - (a) the greatest care in handling records must be exercised at all times;
 - (b) the order of records must not be disturbed;
 - (c) any damage to a record or disturbance in the order of records caused or discovered by a user must be reported to the reading room supervisor;
 - (d) writing or the making of any mark on any record is prohibited;
 - (e) the use of ink pens during the consultation of records is prohibited; and
 - (f) no bags, receptacles or containers of any kind may be retained in a reading room.

19.

The head of the archive repository may prohibit the copying of a record if such copying might damage the record.

20.

The head of the archive repository may limit the length of time for which a user may utilise a copying machine, computer terminal or other facility provided by that repository.

21.

The head of the archive repository may provide members of the public with copies of records but may impose a limit on the number of copies.

22.

Members of the public must pay for any copies of records made in an archives repository according to the prescribed tariffs.

23.

Members of the public must pay such other fees for searches and the use of the facilities of an archives repository as are determined by the Provincial Minister, in consultation with the Committee.

Part IV – Management of records

24.

The head of a governmental body is responsible for ensuring that all records of such body

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

25.

The head of a governmental body must supply the Head of the Service with such information related to the management of records under his or her control as the Head of the Service may require.

26.

The head of a governmental body must comply with all directives and instructions issued by the Head of the Service that pertain to the management and care of public records.

27.

With the exception of transfer of public records to archives repositories, the head of a governmental body must not transfer records of such body either permanently or temporarily out of its custody without—

- (a) informing the Head of the Service of his or her intention to do so at least sixty days in advance of the intended transfer; and
- (b) first securing the approval of the Head of the Service for the intended transfer.

28.

The appraisal of the records of a governmental body may take place on the initiative of either the Head of the Service or the head of the governmental body concerned. In either case, the transfer to an archives repository, destruction or other disposal of such records must be effected in terms of a disposal authority.

29.

Procedures for the issuing of disposal authority must be determined by the Head of the Service by means of directives and instructions.

30.

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

31.

Whenever records are destroyed in terms of a disposal authority, the head of the governmental body concerned must submit to the Head of the Service a certificate of destruction as determined by the Head of the Service unless an exemption from this obligation has been received from the Head of the Service.

32.

The head of a governmental body must report to the Head of the Service without delay all cases of serious damage, loss or unauthorised destruction of that body's records.

33.

- (1) A governmental body may not use a records classification system unless it has been approved by the Head of the Service.
- (2) Any application for the approval of a records classification system must follow procedures determined by the Head of the Service.

34.

All revisions and additions to an approved records classification system must be submitted to the Head of the Service for approval in accordance with procedures determined by the Head of the Service.

35.

The head of a governmental body must report to the Head of the Service the body's intention to microfilm records or to introduce an electronic records system and the notification must follow procedures determined by the Head of the Service.

36.

The official appointed as the records manager of a governmental body in terms of section 9(5) of the Act must

- (a) be in possession of an appropriate university or technikon qualification or have appropriate professional experience;
- (b) have successfully completed an Archives Management Course presented by the National or Provincial Archive and Records Service;
- (c) possess a thorough knowledge of the body's organisational structure, functions and records systems; and
- (d) be responsible for promoting the effective, efficient and accountable management of the body's records and ensuring, by inspections and other means, the body's compliance with the Act these regulations and any other relevant legislation.

37. Title of regulations and date of coming into operation

These regulations are called the Regulations relating to the Provincial Archive and Records Service of the Western Cape and come into operation on the date on which the Act comes into operation.