

KwaZulu-Natal, South Africa

KwaZulu-Natal Archives and Records Service Act, 2011

## KwaZulu-Natal Archives and Records Service Regulations, 2014

Provincial Notice 151 of 2015

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## KwaZulu-Natal Archives and Records Service Regulations, 2014

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# KwaZulu-Natal South Africa

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## KwaZulu-Natal Archives and Records Service Regulations, 2014 Provincial Notice 151 of 2015

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*[This is the version of this document from 9 October 2015 and includes any amendments published up to 4 April 2024.]*

### Part 1 – Definitions

#### 1. Definitions

In these Regulations "the Act" means the KwaZulu-Natal Archives and Records Service Act, 2011 ([Act No. 8 of 2011](#)), and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context otherwise indicates-

"**head of an archives repository**" means an employee appointed in terms of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), and who is in charge of an archives repository, established in terms of section 20 of the Act;

"**records manager**" means an employee of any governmental body designated as a records manager of the governmental body concerned, in terms of section 18(8) of the Act; and

"**strong room**" means a secured room or place in an archives repository where records are stored.

### Part 2 – Transfer of records

#### 2. Application for transfer of public records

- (1) A governmental body wishing to transfer public records to an archives repository must obtain written permission to do so from the Provincial Archivist.
- (2) A request to the Provincial Archivist to transfer public records must-
  - (a) be in writing;
  - (b) be accompanied by a transfer list, which must
    - (i) describe each item to be transferred;
    - (ii) record the date of each item or the beginning and end date of each item;
    - (iii) record the reference number of each item; and
    - (iv) indicate the linear metres required to store the item or items concerned; and
  - (c) contain the reference number of the relevant disposal authority, if such disposal authority was obtained from the Provincial Archivist in terms of section 18(2) of the Act; and

- (d) be accompanied by such other information as the Provincial Archivist may require.
- (3) A request to the Provincial Archivist for permission to transfer public records without a disposal authority must include a summary of items stating the following-
  - (a) the type of record;
  - (b) the office of origin; and
  - (c) an indication-
    - (i) of the nature of the records classification system used;
    - (ii) whether the records classification system was approved by the Provincial Archivist; and
    - (iii) whether the records classification system is still in use.
- (4) The Provincial Archivist may, upon receipt of a request for the transfer of public records-
  - (a) require further information or documents; or
  - (b) issue instructions or special conditions relating to the transfer of such public records.

### **3. Transfer of public records to archives repository**

- (1) Records transferred to an archives repository, must-
  - (a) be accompanied by a transfer list;
  - (b) be arranged in the same sequence followed in the transfer list; and
  - (c) be packed in suitable containers in accordance with the directives issued by the Provincial Archivist in terms of regulation 2(4).
- (2) The Provincial Archivist, or his or her authorised representative, must acknowledge receipt of the transferred public records by signing a copy of the accompanying transfer list.
- (3) The Provincial Archivist may, subject to such terms and conditions as he or she may determine, temporarily return the records transferred to an archives repository in terms of regulation 3(1) to the governmental body which transferred such records or its successor: Provided that such records shall be returned to the archives repository-
  - (a) within 60 days of receipt; or
  - (b) on such other date as the Provincial Archivist may determine.
- (4) All costs relating to the transfer and temporary return of public records shall be borne by the governmental body-
  - (a) transferring the records; or
  - (b) requesting the temporary return of the records in terms of regulation 3(3).

## **Part 3 – Access and use of archivalia**

### **4. Access and use of archivalia**

- (1) The members of the public shall, subject to these Regulations, the Act, the Promotion of Access to Information Act, 2000 ([Act No. 2 of 2000](#)), and any other applicable law, be allowed to view archivalia in an archives repository: Provided that such viewing of archivalia-
  - (a) must take place in the reading room of that archives repository; or

- (b) may only take place in the strong room of an archives repository with the approval of the head of that archives repository.
- (2) The head of an archives repository may require a member of the public who seeks admission to an archives repository to-
  - (a) present an identity document or any other form of identification acceptable to the head of an archives repository;
  - (b) complete and sign a register recording such information as may be required by the head of an archives repository; or
  - (c) complete a request for the archivalia required for viewing.
- (3) The head of an archives repository may determine-
  - (a) the condition under which the archivalia may be viewed;
  - (b) the number of archivalia that may be viewed simultaneously;
  - (c) rules and procedures that must be observed by the members of the public when viewing archivalia in an archives repository;
  - (d) whether archivalia may be copied;
  - (e) the length of time for which a user may use any facility provided by an archives repository; and
  - (f) the number of copies that may be made using the facilities provided by an archives repository.
- (4) When viewing archivalia in an archives repository, a member of the public-
  - (a) must exercise the greatest care in handling such archivalia;
  - (b) must not disturb the order of archivalia;
  - (c) must report to the head of an archives repository or any designated officer in the archives repository, any damage or disturbance in the order of archivalia caused or discovered by the member of the public; and
  - (d) may not write or make any mark on any archivalia.
- (5) The head of an archives repository may, subject to subregulation (8), deny a member of the public access to an archives repository if he or she-
  - (a) fails to comply with-
    - (i) these regulations; or
    - (ii) the conditions, rules and procedures issued by the head of an archives repository in terms of regulation 4(3); or
  - (b) damages or marks archivalia;
  - (c) behaves in an inappropriate manner in the archives repository; or
  - (d) disturbs the order in which archivalia is kept.
- (6) The head of an archives repository must report, in writing, to the Provincial Archivist, every incident where he or she denied a member of the public access to an archives repository in terms of regulation 3(5).

- (7) The report contemplated in subregulation (6) must be-
  - (a) accompanied by detailed reasons in support of the decision to deny the member of the public concerned access to an archives repository; and
  - (b) delivered to the Provincial Archivist before the expiry of 48 hours after the decision to deny the member of the public concerned access to an archives repository.
- (8) The Provincial Archivist may, upon receipt of the report contemplated in regulation 4(7) -
  - (a) on good reason, ratify the decision of the head of an archives repository; or
  - (b) if he or she believes that the decision of the head of an archives repository to deny a particular member of the public access to an archives repository, was-
    - (i) unreasonable;
    - (ii) without good reason; or
    - (iii) irrational,

overrule the decision of the head of an archives repository and direct the head of an archives repository to grant access to the person concerned to an archives repository.

## **Part 4 – Management and care of public records**

### **5. Management of public records**

- (1) The head of a governmental body must ensure that-
  - (a) all records under his or her control are-
    - (i) properly maintained;
    - (ii) protected by appropriate security measures; and
    - (iii) managed in terms of these regulations, the Act, the Promotion of Access to Information Act, 2000 ([Act No. 2 of 2000](#)), or any other applicable legislation; and
  - (b) a records classification system approved by the Provincial Archivist is used;
  - (c) all directives issued by the Provincial Archivist are complied with;
  - (d) all information relating to the records of the governmental body requested by the Provincial Archivist is provided;
  - (e) all cases of serious damage, loss, or unauthorised destruction of records are reported to the Provincial Archivist; and
  - (f) the Provincial Archivist is provided with a certificate of destruction whenever records are destroyed, unless exempted in terms of section 18(9) of the Act.
- (2) The head of a governmental body must report to the Provincial Archivist the intention of that governmental body to-
  - (a) microfilm records; or
  - (b) introduce an electronic records system.
- (3) The Provincial Archivist may issue directives to the head of a governmental body relating to the-
  - (a) management and care of public records;
  - (b) transfer of records to an archives repository;

- (c) preparation of records for destruction; and
- (d) procedure for an application for the-
  - (i) approval of a records classification system;
  - (ii) issue of a disposal authority;
  - (iii) revision of an approved records classification system; and
  - (iv) the procedure to be followed when informing the Provincial Archivist of a governmental body's intention to microfilm records or to introduce an electronic records system.
- (4) Any head of a governmental body intending to transfer public records to an off-site storage facility or any other site outside the ordinary premises of the governmental body concerned, as contemplated in subsection 18(2)(b) of the Act, must-
  - (a) at least 30 days before the date of intended date of transfer request, in writing, the Provincial Archivist's authorisation in terms of section 18(2) of the Act;
  - (b) provide the Provincial Archivist with the details of an off-site storage facility or any other site outside of the ordinary premises of the governmental body concerned; and
  - (c) provide the Provincial Archivist with such other information that the Provincial Archivist may require in terms of subregulation (5).
- (5) The Provincial Archivist may, upon receipt of the request in terms of subregulation (4)-
  - (a) inspect the off-site storage facility or any other site outside the ordinary premises of the governmental body concerned, in order to determine its suitability;
  - (b) require to inspect any plans, drawings or diagrams necessary to determine the suitability of the identified premises;
  - (c) require the head of the relevant governmental body to provide such further information or documents which are necessary to determine the suitability of the identified premises; and
  - (d) require to inspect the mode of transport to be used in transporting the records to an off-site storage facility or any other site outside the ordinary premises of the governmental body concerned.

## 6. Records manager

The official designated by the head of a governmental body in terms of section 18(8) of the Act as a records manager must-

- (a) be in possession of an appropriate university or technikon qualification or appropriate professional experience in the field of archives and records management;
- (b) have successfully completed an archives and records management course, approved by the Provincial Archivist;
- (c) have a thorough knowledge of the organisational structure, functions, and records system of the governmental body concerned; and
- (d) be appointed to a post level not below that of an assistant manager.

## **Part 5 – Short title**

### **7. Short title**

These Regulations are called the KwaZulu-Natal Archives and Records Service Regulations, 2014.