

VIRGIN ISLANDS
ARCHIVES AND RECORDS MANAGEMENT ACT, 2010
ARRANGEMENT OF SECTIONS

Section

Preliminary

1. Short title and commencement.
2. Interpretation.

Establishment of the Archives its functions and powers and the Director and other staff

3. Establishment of Archives.
4. Functions of the Archives.
5. The Director and other staff.
6. Powers of the Director and other staff.
7. Official Seal.

Establishment of the Advisory Board and its functions

8. Archives Advisory Board and membership.
9. Functions of the Board.
10. Chairperson and Deputy Chairperson of the Board.
11. Tenure of office of members.
12. Termination of office of a member.
13. Resignation of a member.
14. Meetings of the Board.
15. Disclosure of certain interests.
16. Fees for members.

Responsibilities for managing records and archives

17. General duties of responsible officers.
18. Responsibility of Director with respect to managing records and archives.
19. Semi-current records.
20. Responsibilities of responsible officers with respect to semi-current records.
21. Records of continuing or permanent value.

Registers and Guides relating to archives

- 22. Register of Records.
- 23. Guide to Archival Material.
- 24. Register of Research.

Access to public records

- 25. Access to records and archives.
- 26. Records of Commissions etc. to be deposited.
- 27. Thirty year rule.

Objects of archival significance

- 28. Declaration of objects of archival significance.
- 29. Samples of material for Archives.
- 30. Location of material of the Archives.
- 31. Custody of material of the Archives other than by Archives.
- 32. Archives Fund.
- 33. Report.
- 34. Accounts and Audit.
- 35. Administrative Expenses.
- 36. Finances of the Archives.
- 37. Fees.

Legal Provisions

- 38. Legal depository
- 39. Authentication of copies and extracts.
- 40. Copyright.

Miscellaneous Provisions

- 41. Procedures relating to records where public office is to be closed down.
- 42. Records in private possession.
- 43. Prohibition of export of public and private records of historical value.
- 44. Unauthorised destruction, wilful mutilation or removal of public records.
- 45. Regulations.
- 46. Modification of existing enactments.
- 47. Transitional provisions.

I Assent

(Sgd.) V. Inez Archibald
Acting Governor

12th August, 2010

VIRGIN ISLANDS
No. 5 of 2010

An Act to provide for the establishment of the Archives and Records Management Department; to provide for the preservation of public archives and records, and for related matters.

[Gazetted 2nd September, 2010]

ENACTED by the Legislature of the Virgin Islands as follows:

Preliminary

1. This Act may be cited as the Archives and Records Management Act, 2010 and shall commence on a date the Minister may, by Proclamation published in the *Gazette*, appoint. Short title and commencement.

2. In this Act, unless the context otherwise requires Interpretation.

“archives” means records, usually but not necessarily non-current records, of enduring value selected for permanent preservation;

“Archives” means the Archives and Records Management Department established under section 3(1);

“archival repository” means a building or a part of a building in which archives are preserved and made available for consultation;

“archival resources” means records and other material of national significance or public interest relating to

- (a) the history or Government of the Virgin Islands,
- (b) the legal basis, origin, development and organisation of activities of the Virgin Islands or of a Virgin Islands institution,
- (c) a person who is or has at anytime been associated with a Virgin Islands institution, and
- (d) an international or other organisation the membership of which includes the Virgin Islands or a Virgin Islands institution,

but does not include material that in the opinion of the Cabinet ought to be in the archives of another country or in the archives of an international organisation;

“Board” means the Archives Advisory Board established under section 8;

“Chairperson” means the Chairperson of the Board;

Cap 237

“Commission” means a commission of inquiry set up by the Governor in accordance with the Commissions of Inquiry Act;

“court” means a court of competent jurisdiction;

“Director” means the person for the time being occupying the office of the office of director of the Archives;

“District Archives” means a place in a District of the Territory, where subject to the approval of the Minister, archival material is kept;

“document” means information recorded in writing regardless of form or medium;

“Guide” means the Virgin Islands Guide to Archival Material established under section 23(1);

“institution” means an organisation established for a public purpose or an institution operating in the Virgin Islands or a Virgin Islands controlled company or association;

“manuscript” means a handwritten or printed document made of paper, copper, silver, gold or other material other than granite;

“material” means records and other objects;

“material of the Archives” means

- (a) records other than current Virgin Islands records relating to the administration of the Archives in the custody of the Archives; or
- (b) an object in the custody of the Archives other than a record, that forms part of the archival resources relating to the Virgin Islands and materials kept in the custody of a person in accordance with arrangements made under section 31;

“member” means a member of the Board appointed under section 8(3);

“Minister” means the Minister charged with the responsibility for the Archives;

“open access period” means in relation to a record, the period after thirty years from the date the record came into existence;

“printed matter” means a book, document, magazine, leaflet, newspaper or any other paper containing information printed by a mechanical or electronic process;

“private records” means records held by custodians or private owners;

“public archives” means a public record, manuscript, document or other printed matter which is more than thirty years old and is kept or deposited at the Archives for permanent preservation;

“public office” has the same meaning assigned to it under section 2 of the Virgin Islands Constitution Order, 2007;

UK S.I. 2007
No. 1678

“public records” means

- (a) records that belong to the Virgin Islands created, received and maintained
 - (i) by a public office, a Minister responsible for a Ministry or other person responsible for a public office or by an officer or an employee of a public office;
 - (ii) by a court with jurisdiction within the Virgin Islands or by a judge or officer of the court;
 - (iii) by any body or individual designated by an Order made under this Act; and

(b) all archives in the custody of the Archives and Records Management Unit prior to the commencement of this Act;

U.K.S.I. 2007
No. 1678

“public service” has the meaning assigned to it under section 2 of the Virgin Islands Constitution Order, 2007;

“records” means recorded information regardless of form or medium created, received and maintained by a public office or individual in the pursuance of its or his or her legal obligations, such as an original or a copy of a manuscript, paper, letter, register, report, book, magazine, map, chart, plan, drawing, picture, photograph or machine-readable record or a part of it either handwritten, drawn, printed or produced in any other way on paper or on any other material except granite and officially produced or prepared, or received, in an office in the course of its official functions; any cinematograph, film, microfilm recording, tape, all other audio visual materials, disc, computer or machine-readable records including all electronic records received or made in a public office;

“Record Centre” means a building specially designed and constructed or converted for the storage, maintenance and use of semi-current records pending their ultimate disposal;

“Regulations” means Regulations made under this Act;

“responsible Minister” in relation to a Virgin Islands record, means the Minister to whose ministerial responsibilities the record is most closely related;

“responsible officer” with reference to a public office, means the head of that public office or the officer acting as the head of that office and cognate expressions shall be construed accordingly;

“retention schedule” means a document describing the recurring records of a public office or an administrative unit of the public office, specifying those records to be preserved as having permanent value as archives and authorising on a continuing basis and after the lapse of specified retention periods or the occurrence of specified actions or events, the disposal by destruction or other means, of the remaining records;

“semi-current records” means records rarely required for the conduct of current business including files and other assemblies on which action has not been recorded for at least five years;

“Unit” means the Archives and Records Management Unit existing prior to the commencement of this Act;

“Virgin Islands record” means

- (a) a record that is the property of the Virgin Islands including public and private records;
- (b) a record declared by an Order made under this Act to be a Virgin Islands record; or
- (c) records of a public office.

Establishment of the Archives its functions and powers and the appointment of the Director and other staff

3. (1) There is established by this Act the Archives and Records Management Department (referred to in this Act as the “Archives”). Establishment of Archives.

(2) The Archives shall be a department in the public service of the Virgin Islands.

(3) Subject to this Act, the Minister may give to the Archives directives on matters of Government policy and the Archives shall comply with the directives.

4. (1) The functions of the Archives are to Functions of the Archives.

- (a) assist public offices to follow good record keeping practices;
- (b) advise public offices, private institutions and individuals on best record keeping practices and establish and monitor professional information management standards;
- (c) establish and implement procedures for the timely disposal of records of no continuing value and the transfer of those of permanent value to the Archives;
- (d) acquire, organise, preserve and provide access to records and archives for public consultation;
- (e) identify vital records and coordinate with other bodies responsible for disaster planning with respect to the management of vital records;
- (f) promote the historical, cultural and literary value of records and archives through exhibitions, outreach services and other dissemination activities;
- (g) carry out any other functions that are incidental to the

functions specified under paragraphs (a) to (f) and which are for the better carrying out of the purposes of this Act.

(2) The functions of the Archives shall be performed by the Director and other staff of the Archives.

The Director and other staff.

U.K.S.I. 2007 No. 1678.

5. (1) The Governor, acting in accordance with the provisions of section 92 of the Constitution, shall appoint a suitably qualified person to be the Director of the Archives and he or she shall be the administrative head of the Archives.

(2) The Governor, acting in accordance with the provisions of section 92 of the Constitution, shall appoint such other staff, including archives and records officers, as may be necessary for the efficient functioning, management and operations of the Archives.

Powers of the Director and other staff.

6. (1) The Director and other staff of the Archives shall in the discharge of their duties in furtherance of the functions of the Archives, exercise powers necessary for the purpose of performing the functions, and in particular exercise the following powers:

- (a) establish and control repositories or other facilities to house or exhibit material of the Archives, and in association with a public office or other person, control repositories or other facilities in which material of the Archives is housed or exhibited;
- (b) undertake the survey, appraisal, accessioning, arrangement, description and indexing of Virgin Islands records;
- (c) make
 - (i) arrangements for the acquisition of copyright in relation to, or
 - (ii) arrangements relating to the custody ofmaterial that forms part of the archival resources of the Virgin Islands;
- (d) chronicle and record matters relating to the structure and functioning of public offices or other matters of archival significance and make records for the purpose of adding to the archival resources of the Virgin Islands;

- (e) make copies of archival material by microfilming or otherwise, but not so as to infringe copyright in the material other than copyright owned by the Virgin Islands;
- (f) arrange for the publication of material which forms part of the archival resources of the Virgin Islands or works based on material which forms part of the archival resources in a manner which does not infringe copyright other than copyright owned by the Virgin Islands in the material or works;
- (g) publish indexes and other guides to archival material;
- (h) enter into agreement with public offices on retention schedules relating to records specific to those offices and to ensure the implementation of the retention schedules;
- (i) authorise the disposal and destruction of Virgin Islands records in accordance with Regulations made under section 45;
- (j) on request, assist public offices in the training of persons responsible for the keeping of current Virgin Islands records;
- (k) train or assist in the training of persons other than persons responsible for the keeping of current Virgin Islands records, for work in connection with records and other archival material;
- (l) obtain and maintain equipment for use in retrieving or otherwise obtaining information from records;
- (m) provide information and facilities for persons using the material of the Archives;
- (n) carry out any other functions that are incidental to the functions specified under paragraphs (a) to (m) and which are for the better carrying out of the purposes of this Act.

(2) Where in the performance of its functions the Archives enters into an arrangement to accept the custody of a record from a person other than a public office, that arrangement may provide for the extent to which the Archives or other persons may have access to the records, and the arrangement shall have effect.

(3) An arrangement to accept the custody of records from a person other than a public office shall be effective to the extent of its consistency with

standard provisions made for an arrangement of that kind, where the arrangement entered into by the Archives relates to a Virgin Islands record.

Official Seal.

7. (1) The Archives shall have an official seal of a design approved by the Cabinet.

(2) The official seal shall be judicially noticed.

(3) The official seal shall be kept in the custody of the Director and may be used by an officer authorised by the Director for the purposes of the Archives.

Establishment of Advisory Board and its functions

Archives
Advisory Board
and membership.

8. (1) There is established by this Act an Archives Advisory Board (in this Act referred to as the “Board”).

(2) The Board shall comprise of

(a) not more than five persons with experience in records management and archival research, or related experience, nominated by the Cabinet;

(b) the Director (*ex officio*); and

(c) one representative from each of the following public offices:

(i) the Ministry of Finance (*ex officio*);

(ii) the Attorney General’s Chambers (*ex officio*); and

(iii) the Department of Information Technology (*ex officio*).

(3) The Board shall be appointed by the Cabinet.

(4) The Director shall be the Secretary to the Board.

Functions of the
Board.

9. The Board shall subject to this Act, give advice to the Minister in the Minister’s determination of policy for the Archives on the following:

(a) the location, preservation and use of public archives;

(b) the custody and transfer of public records;

- (c) the conditions and restrictions on which public records are made available for research or any of them may be inspected and published;
- (d) inspection and preservation of documents and manuscripts of historical, cultural or literary value in private possession;
- (e) inspection by members of the public of public archives and public records;
- (f) editing and publishing of public archives and private manuscripts; and
- (g) any other matter related to archives and records management.

10. The Cabinet shall appoint a member to be the Chairperson of the Board and another member to be the Deputy Chairperson of the Board.

Chairperson and Deputy Chairperson of the Board.

11. (1) With the exception of the Director and persons mentioned under section 8 (2) (c), a member of the Board shall hold office for a period specified in the member's instrument of appointment, which period shall not exceed three years.

Tenure of office of members.

(2) A member is eligible for re-appointment on the expiration of his or her term of office.

12. (1) The Cabinet may terminate the appointment of a member on grounds of misbehaviour, or physical or mental incapacity.

Termination of office of a member.

(2) Except on leave granted by the Board, a member ceases to be a member if the member is absent from a meeting of the Board on three consecutive occasions without giving a reasonable excuse in writing to the Chairperson.

(3) Notwithstanding section 11, a person who represents an organisation or institution as a member of the Board shall cease to be a member of the Board on ceasing to be a member of staff of the organisation or institution he or she represents.

13. A member may resign his or her office in writing signed by him or her and addressed to the Cabinet Secretary.

Resignation of a member.

14. (1) The Board shall hold meetings as and when necessary for the performance of its functions but, shall meet at least twice in a year.

Meetings of the Board.

(2) A decision of the Board is not invalidated by reason of a vacancy in its membership.

(3) The Chairperson may at any time convene a meeting of the Board.

(4) The Chairperson shall, on receipt of a request in writing signed by two other members of the Board, convene a meeting of the Board.

(5) The Board shall regulate its own proceedings.

(6) The quorum for a meeting of the Board is five members of the Board including the person presiding.

(7) In the absence of the Director, a member of staff of the Archives nominated by the Director shall attend the meeting of the Board, and that person shall take part in the proceedings.

(8) The Chairperson shall preside at all meetings of the Board at which the Chairperson is present.

(9) The Deputy Chairperson shall preside at meetings of the Board in the absence of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson, one of the members elected from among the members present shall preside.

(10) Questions arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting.

(11) The Chairperson or in his or her absence, the member presiding at a meeting of the Board has a deliberative vote and, shall also have a casting vote in the event of an equality of votes.

(12) A reference to the Chairperson shall, if the position of Chairperson is vacant or the Chairperson is absent from the Virgin Islands or unable to perform the duties of his or her office, be read as a reference to the Deputy Chairperson but in the absence of the Deputy Chairperson shall be construed as a reference to the person acting as the Chairperson.

Disclosure of
certain interests.

15. (1) Where a matter is to be decided by the Board at a meeting, any member present at the meeting who has an interest in the matter, otherwise than as a member, shall

(a) at the meeting, disclose to the Board the fact of the interest and the nature of the interest in advance of any consideration of the matter;

(b) neither influence nor seek to influence a decision relating to the matter;

- (c) absent himself or herself from any meeting or that part of the meeting during which the matter is discussed; and
 - (d) not take part in any deliberation of the Board relating to the matter, and not vote on a decision relating to the matter.
- (2) Where a member discloses an interest in a matter under this section
- (a) the disclosure shall be recorded in the minutes of the meeting; and
 - (b) for so long as the matter is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting unless the Board otherwise determines.
- (3) Where at a meeting of the Board, a question arises as to whether or not a course of conduct pursued by a member constitutes a failure by the member to comply with the requirements of subsection (1),
- (a) the question may be determined by the Chairperson whose decision shall be final; and
 - (b) particulars of the determination shall be recorded in the minutes of the meeting concerned, if the question is determined.
- (4) If the Cabinet is satisfied that a member of the Board has contravened subsection (1), the Cabinet may, if it considers it appropriate, remove that member from the Board.
- (5) A person who is removed from the Board under subsection (4) is disqualified from membership of the Board.

16. A member who is not a public officer shall be paid a fee determined by the Minister, acting on the advice of the Minister for Finance.

Fees for members.

Responsibilities for managing records and archives

17. Each responsible officer in charge of a public office shall be responsible for the records management unit within his or her office and shall establish good records keeping practices, including

General duties of responsible officers.

- (a) the creation and management of current records within appropriate record keeping systems;
- (b) developing, jointly with the Director, retention and disposal schedules relating to records specific to his or her office; and

- (c) the implementation of retention and disposal schedules issued in accordance with paragraph (b).

Responsibility of Director with respect to managing records and archives.

18. Subject to the provisions of this Act, the Director is responsible for the supervision of the records management functions of public offices and shall pursuant to this responsibility discharge the following duties:

- (a) develop policy guidelines and issue directives to the public officers;
- (b) provide professional assistance, advice and guidance on the establishment and management of record keeping systems;
- (c) draw up general retention schedules which shall be agreed upon with the heads of public offices and, where appropriate, develop retention and disposal schedules specific to the offices of the Director of Public Prosecutions, Accountant General, Attorney General and Auditor General, the House of Assembly and the court;
- (d) monitor the provision of retention and disposal schedules;
- (e) conduct an inspection of the records management unit of each public office to ensure compliance with standards for the management of public records as enshrined in the policy guidelines and directives issued to the public office, by the Director.

Semi-current records.

19. The Director shall accept custody of semi-current records which have been scheduled with the creating public office for further retention and maintain them within a Records Centre, and shall in particular

- (a) on request, in writing from the responsible officer, temporarily return semi-current records to the public office which created them or to its successor for the purposes of current administration;
- (b) implement retention schedules in respect of semi-current records in his or her custody;
- (c) appraise and dispose appropriately of semi-current records which are in his or her custody and are not covered by retention schedules;

- (d) arrange for the transfer of records of continuing or permanent value to the archival repository.

20. Subject to this Act, responsible officers shall be responsible for the management of semi-current records, and in particular shall be responsible for

Responsibilities of responsible officers with respect to semi-current records.

- (a) maintaining the integrity of all semi-current records temporarily transferred to them under section 19(d) and return the records to the Archives after use; and
- (b) approving access by third parties, other than authorised personnel of the Archives and of the public office which created them or its successor, to semi current records in the custody of the Director.

21. The Director is responsible for the preservation, in the Archives, of all public records of continuing or permanent value and shall in particular be responsible for

Records of continuing or permanent value.

- (a) arranging and describing those records and providing appropriate guides, lists, indexes and other finding aids, utilising current technology to facilitate their access;
- (b) arranging for reasonable facilities to be available to the public for accessing public records and archives;
- (c) establishing rules to be observed for access to, and for obtaining, copies of public records and archives;
- (d) preparing publications or objects relating to public records for sale;
- (e) arranging exhibitions and facilitating copies of public records as may be needed for exhibitions elsewhere subject to conditions which he or she may specify, except that loaning outside the Virgin Islands may not be made without the consent of the Minister;
- (f) disposing of any public records in the Archives if it seems to him or her that they are not of continuing or permanent value, subject to the agreement of the head of the public office in which they were created or its successor;
- (g) acquiring by purchase, donation, bequest, or loan any record, manuscript or any printed matter which in his or her opinion

should be deposited in the Archives for permanent preservation;

- (h) examining any collection of records, in private possession for purposes of identifying such records of historical, cultural or literary value with the view to appraise, document and render such technical aid or assistance as may be necessary for the preservation of such records;
- (i) promoting the historical, cultural and literary value and use of records and archives; and
- (j) microfilming, digitising or otherwise reproducing or making copies of any public record or record of historical, cultural or literary value.

Registers and Guides relating to archives

Register
of Records.

22. (1) The Archives shall pursuant to section 6(1)(b) seek the cooperation of the owners and custodians of material in District Archives and other archives to establish and maintain a register to be known as the Register of Records (referred to in this Act as “the Register”) which shall contain particulars of each material of the Archives as the Director considers appropriate but in particular contain

- (a) existing Virgin Islands archives;
- (b) material in the District Archives;
- (c) material in other archives, including private archives; and
- (d) other archival resources relating to the Virgin Islands.

(2) A person may inspect, during normal working hours of the Archives, the Register and is entitled to receive a copy of an entry in the Register, on the payment of a prescribed fee determined by Regulations.

Guide to
Archival
Material.

23. (1) The Archives shall establish and maintain a manual to be known as the Guide to Archival Material (referred to in this Act as “the Guide”).

(2) Subject to subsection (4), the Guide shall contain particulars of Virgin Islands records in the open access period that can be examined in a form the Director considers appropriate.

(3) Subject to subsection (4), the Guide may also contain copies of particulars contained in the Register.

(4) The Guide shall not include particulars, the disclosure of which would be contrary to an existing law or any arrangements entered into by the Archives in accordance with section 6 (2).

(5) A copy of the Guide shall be kept at the Archives and in each District or Island in which the Archives maintains an office and may be kept at other places of the Archives determined by the Director.

(6) A person may inspect the Guide, during normal working hours of the Archives, and is entitled to receive a copy of the Guide or any part of the Guide on the payment of a prescribed fee determined under Regulations.

24. (1) The Archives shall establish and maintain a register to be known as the Register of Research which shall list research that has been or is being conducted, in or in relation to the Virgin Islands and has involved or will involve, the use of archival material.

Register of Research.

(2) For purposes of subsection (1), the Archives shall seek the cooperation of persons and organisations who have conducted or are conducting research or who are interested in research of the kind referred to in that subsection, including the authorities of tertiary education, colleges and universities.

(3) A copy of the Register of Research shall be kept at the Archives and in each District or Island in which the Archives maintains an office and may be kept at other places of the Archives determined by the Director.

(4) A person may inspect the Register of Research, during normal working hours of the Archives, and is entitled to receive a copy of an entry in the Register of Research, on the payment of a prescribed fee determined by Regulations.

Access to public records

25. (1) Subject to the thirty year rule, the Director may grant access to records and archives.

(2) The Director shall have access to public records held by a public office and shall appraise and transfer public records to the Archives, where necessary.

(3) The responsible officer of a public office or any other person for the time being having custody of a public records shall

- (a) afford the Director or any other officer authorised by the Director, the necessary access and facilities for the appraisal and transfer of public records to the Archives, where necessary; and

Access to records and archives

Records of Commissions, etc. to be deposited.

- (b) deposit with the Director two copies of published reports and any other printed matter of the Ministry or Department for which he or she is responsible, within twenty-one days after publication.

26. (1) It shall be the duty of the Chairman of any Commission to deposit all manuscripts and records, including two copies of the final report relating to that Commission to the Archives within twenty-one days after that report becomes a public document.

(2) It shall be the duty of the head of any public corporation, statutory body or similar institution to deposit with the Director two copies of every published report or any other printed matter relating to that institution within twenty-one days after such report has been published.

(3) It shall be the duty of the Clerk of the House of Assembly to deposit with the Director one copy of all records tabled in the House of Assembly and of all audio tapes or recordings of House proceedings and transcripts thereof, within twenty-one days after they become available to him or her.

(4) It shall be the duty of any publisher of any book, newspaper periodical, journal, novel, or any printed matter produced in the Virgin Islands for public sale or public distribution to deposit with the Director two copies of the same within twenty-one days of publication.

(5) It shall be the duty of the producer of any recordings produced in the Virgin Islands for public sale or public distribution to deposit with the Director one copy of the same within twenty-one days of production.

27. Subject to exceptions made by Cabinet or by any law, public records or records in the Archives shall not be available to the public for consultation until after a thirty year period has expired from their creation. Thirty year rule.

Objects of archival significance

28. (1) Where it appears to the Minister that an object which is the property of the Virgin Islands or a public office and should form part of the archival resources of the Virgin Islands, is in the possession of an institution, the Minister may by Notice published in the *Gazette* declare the object to be an object of archival significance to which this section applies.

Declaration of objects of archival significance.

(2) The person responsible for the custody of an object declared under subsection (1) shall cause the object to be delivered to the custody of the Archives in accordance with arrangements approved by the Archives, if the object is put out of use by the public office before or after the commencement of this Act.

(3) Subject to subsection (4), a person shall not engage in conduct that results in

- (a) the destruction or other disposal, of an object, or
- (b) damage to an object,

to which this section applies.

(4) Subsection (3) does not apply if the person has the permission of the Archives to destroy, dispose of or damage the object.

29. (1) The Archives may request custody of samples of commemorative bank notes or coins printed or minted by or under the authority of the Government of the United States of America, that are legal tender in the Virgin Islands.

Samples of material for Archives.

(2) The Virgin Islands Post Office shall cause to be delivered to the custody of the Archives samples of postage stamps issued.

(3) The Archives may require a public office to deliver or cause to be delivered to the custody of the Archives samples of objects included in a class of objects to which this Act applies, that are the property, of the Virgin Islands or of that public office.

(4) The Minister may by Notice published in the *Gazette*, declare that a specified class of objects, not being objects referred to in subsection (1) or (2) is a class to which subsection (3) applies.

30. (1) A material of the Archives shall be kept at a place, designated by the Director.

Location of material of the Archives.

(2) The Director shall in considering the place at which an archival material should be kept, take into account

- (a) the convenience of persons who are likely to require access to the material;
- (b) the desirability of keeping related material in the same place; and
- (c) the appropriateness of keeping in a District or Island, material that relates in particular to that District or Island, or to places in that District or Island.

(3) Copies of records forming part of the material of the Archives may be kept in a place determined by the Director.

Custody of material of the Archives other than by Archives.

31. (1) Subject to the rights of a public office, the Archives may make arrangements with a person for material of the Archives to be kept in the custody of that person, where the Director considers it appropriate to do so.

(2) Arrangements referred to in subsection (1) shall provide for the care of the material of the Archives to which they relate and for the regular inspection of that material by the Archives.

The Archives Fund and other financial provisions

Archives Fund.

32. (1) There shall be established a Fund to be known as the Archives Fund which shall be used for the efficient management of the Archives including the purchase of any record or archives which in the opinion of the Director, is or is likely to be of historical, cultural or literary value in relation to the Virgin Islands.

(2) There shall be paid into the Archives Fund such sums as the House of Assembly shall appropriate, and any sums donated to it by way of bequest or otherwise.

Report.

33. (1) The Director shall within three months of the end of each financial year, submit to the Minister a report containing

- (a) a summary of the activities of the Archives throughout the financial year; and
- (b) a statement of accounts of the Archives during the financial year.

(2) The first report shall relate to the period commencing on the date of commencement of this Act and ending on the next following 31st December, and subsequent reports shall relate to the financial year.

(3) The Minister shall on receipt of the report cause a copy of the report to be laid before the House of Assembly within fifteen sitting days of the House of Assembly, calculated from the date on which the Minister received the report and comments.

Accounts and Audit.

34.(1) The Archives shall maintain proper books of account and other records in the form determined by the Auditor General.

(2) The Archives shall not later than three months after the end of the financial year, submit its books and records of account to the Auditor General for audit.

(3) The Auditor General shall not later than three months after the submission under subsection (2), audit the books and records of account of the Archives, and submit a copy of the report on the accounts to the Minister who shall cause the report to be laid before the House of Assembly within three months from the date the report is received.

(4) The Auditor General may, with the prior approval of the Minister, issue instructions regarding the conduct of the audit or conduct a supplementary audit.

35. The administrative expenses of the Archives shall be a charge on the Consolidated Fund. Administrative Expenses.

36. The sources of finance of the Archives shall include Finances of the Archives.

- (a) moneys provided for the Archives by the Government of Virgin Islands under section 32 (2);
- (b) any other moneys accruing to the Archives in the course of the discharge of its functions.

37. (1) Fees for searches, supply of copies, certification of copies and the provision of other services by the Archives shall be prescribed by Regulations made in accordance section 45. Fees.

(2) Such fees, fines from penalties, gifts, donations and other sums which may be payable to the Archives, shall be paid into the Archives Fund and used in discharging its obligations and the performance of its functions under this Act.

Miscellaneous provisions

38. The Archives shall in accordance with this Act, be a legal depository for all public and private records published in the Virgin Islands. Legal depository.

39. (1) The Director may give a certificate that a record referred to in the certificate is a true copy of a record that is in the custody of the Archives. Authentication of copies and extracts.

(2) A copy, reproduction or extract from any record or archives deposited in the Archives purporting to be duly certified as true and authenticated by the Director or any other officer authorised by him or her in writing for the purpose and having impressed on it the official seal of the Archives shall be admissible as evidence in any court in like manner and to the like extent as the original record.

Copyright.

40. (1) In making available for inspection or providing copies of any public record or archives in his or her custody, the Director shall not be in breach of any private copyright in accordance with existing copyright laws of Virgin the Islands.

(2) The provision of copies of any public record or archives by the Director does not involve the transfer of any copyright to the recipients.

(3) The publication of facsimile copies, verbatim transcripts or literal translations of any public record or archives in the custody of the Director in which copyright subsists in the Virgin Islands is prohibited, except with the consent of the Director and subject to such conditions as he or she may prescribe and to the payment of such fees as may be prescribed by Regulations made in accordance with section 45.

Procedures relating to records where public office is to be closed down.

41. Where any public office is due to be closed down or amalgamated, it is the duty of the responsible officer of the public office to notify the Director of such a decision and to facilitate the transfer of those public records no longer needed for administrative use in his or her custody to the Archives.

Records in private possession.

42. (1) Any private individual or the Chief Executive Officer of any institution in possession of any records over thirty years old relating to the Virgin Islands, being a record of historical, cultural or literary value, shall notify the Director of the existence of such records.

(2) The individual or Chief Executive Officer referred in subsection (1) shall afford the Director all facilities to inspect those records.

(3) The individual or Chief Executive Officer referred in subsection (1) shall, if so agreed between him or her and the Director, deposit at the Archives such records on a permanent or temporary basis, as the case may be, or may permit the Director to make a copy of the same, and may specify the conditions subject to which such records shall be made available for public inspection or copies made there from.

(4) For the purposes of this Act, the Director may declare any record over thirty years old relating to Virgin Islands to be of historical, cultural or literary value and upon that declaration, enter the particulars of the records in a register kept by him or her for that purpose.

(5) Any person who does not agree with the declaration of the Director may appeal to the Minister against the declaration of the Director and the Minister's decision on the matter shall be final.

43. (1) The export of public records from Virgin Islands is prohibited, except where some law provides otherwise.

Prohibition of export of public and private records of historical value.

(2) A person shall not, except on the authority of a permit issued in that behalf by the Director export or remove from the Virgin Islands any private record being of historical, cultural or literary value.

(3) The Director may in his or her discretion refuse to issue a permit if he or she considers that the export of any private record will not be in the national interest.

44. (1) A person who

Unauthorised destruction, wilful mutilation or removal of public records.

(a) wilfully defaces, marks, mutilates or causes damage to a record, manuscript, document or other material, in a public office, the Archives or a place of deposit under the control of the Director,

(b) removes any public record from a public office, the Archives or a place of deposit without proper authorisation or who destroys any public record other than as provided for in this Act,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(2) A person who without reasonable cause denies an officer of the Archives access to public records commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(3) A person who contravenes the provisions of section 43, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Any person who contravenes section 26 (4) and (5) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(5) Any public record which has been removed without proper authorisation in the past or may be so removed in the future and which remains within the jurisdiction of the courts of the Virgin Islands may be reclaimed by the public office in which it was created or by its successor institution.

Regulations.

45. (1) The Cabinet may, on the advice of the Board make Regulations for the better carrying out of the objects and purposes of this Act.

(2) Without limiting the generality of subsection (1), the Regulations may provide for

- (a) the selection of public records and private documents and manuscripts for permanent preservation, their transfer to and deposit at the Archives and measures to be taken for their effective preservation in the Archives;
- (b) the temporary deposit of any specified class or description of public records at the Records Centre or any other place other than the Archives pending their transfer to the Archives;
- (c) the preservation of public records in the custody of public offices and other institutions;
- (d) any further responsibility of a public officer for the custody of public records;
- (e) the cases or circumstances under which a record is deemed to be a Virgin Islands record for the purposes of this Act or a record of the Virgin Islands which a Virgin Islands institution is entitled to have possession;
- (f) the disposal and destruction of Virgin Islands records;
- (g) public access to the archives and the terms and conditions to be attached;
- (h) permits to be issued under this Act;
- (i) fees to be charged under this Act;
- (j) prohibition or restriction of the disclosure of information obtained by the public from public archives;
- (k) the purchase from private individuals or organisations of manuscripts and documents and other printed matter of historical, cultural or literary value for permanent preservation in the Archives;

- (l) the holding of exhibitions and expositions of public archives;
and
- (m) prescribing anything, which under this Act may be prescribed.

46. The provisions of the Registration and Records Act and any enactment of relevance to this Act and in force at the commencement of this Act shall, have effect subject to the modifications necessary to give effect to this Act and to the extent that the provisions of the Registration and Records Act or a relevant enactment is inconsistent with this Act, the provisions of this Act shall prevail.

Modification of existing enactments. Cap. 67

47. (1) A reference to the Unit, to the Archival Authority or to the authority concerned with the preservation of the archives in

Transitional provisions.

- (a) an enactment of the Virgin Islands,
- (b) a statutory document, or
- (c) an agreement or arrangement in respect of an archival resource,

made before the commencement of this Act shall, on the commencement of this Act, be construed as a reference to the Archives.

(2) Notwithstanding this Act, arrangements in operation immediately before the commencement of this Act relating to the disposal or custody of a Virgin Islands record may continue in operation until the Director directs otherwise.

(3) Where immediately before the commencement of this Act, records from a person other than a public office, were in the custody of the Unit under arrangements by which the custody of the records was accepted by the Virgin Islands, or by an authority or person acting on behalf of the Virgin Islands, those arrangements and any provision of the arrangements concerning access to or disposal of those records shall, have effect from the commencement date of this Act as if they were made by that person with the Archives, after the commencement date.

(4) Records and archives in the custody of the Chief Records Management Officer on the day of the commencement of this Act are hereby transferred to the custody of the Director of the Archives subject to any terms and conditions that were applicable to those records and archives on that day.

(5) A person holding an office in the Unit existing on the day immediately preceding the date on which this Act commences is deemed to hold the same office under the same terms and conditions of service in the Archives established under this Act, unless the person is appointed to a higher post on the commencement of this Act.

Passed by the House of Assembly this 22nd day of July, 2010.

(Sgd) ROY HARRIGAN,
Speaker.

(Sgd.) JOANN HODGE
Acting Deputy Clerk of the House of Assembly.