

The Maharashtra Public Records Act, 2005

MAHARASHTRA

India

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Act 4 of 2006

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The Maharashtra Public Records Act, 2005 Maharashtra Act No. 4 of 2006 (First Published, after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 17th January 2006.) An Act to regulate the management, administration and preservation of public records of the State Government, local authorities, public sector undertakings, statutory bodies and corporations, commissions and committees constituted by the State Government and for matters connected therewith or incidental thereto. Whereas it is expedient to regulate the management, administration and preservation of public records of the State Government, local authorities, public sector undertakings, statutory bodies and corporations, commissions and committees constituted by the State Government and for matters connected therewith or incidental thereto; it is hereby enacted in the Fifty-sixth Year of Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Maharashtra Public Records Act, 2005. (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Board" means the State Archival Advisory Board constituted under sub-section (1) of section 13; (b) "Department of Archives" means the Department of Archives under the administrative control of the Social Justice, Cultural Affairs and Special Assistance Department of the Government of Maharashtra; (c) "Director" means the Director of the Department of Archives appointed by the State Government and includes any officer authorized by the State Government to perform the duties of the Director; (d) "Government" or "State Government" means the Government of Maharashtra; (e) "local authority" means, - (i) The Municipal Corporation of Brihan Mumbai, established under the Mumbai Municipal Corporation Act, (ii) a Municipal Corporation, established under the Bombay Provincial Municipal Corporations Act, 1949; (iii) The Corporation of the City of Nagpur, established under the City of Nagpur

Corporation Act, 1948;(iv)A Municipal Council, constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965; and(v)a Zilla Parishad, established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961;(f)"prescribed" means prescribed by rules made under this Act;(g)"public records" includes,(i)any document, manuscript and file;(ii)any microfilm, microfiche and facsimile copy of a document;(iii)any reproduction of image or images embodied in such microfilm (whether enlarged or not); and(iv)any other material produced by a computer or by any other device,of any records creating agency;(h)"records creating agency" includes, -(i)in relation to the State Government, any Department of Mantralaya or office of the State Government;(ii)in relation to the local authority or any statutory body or corporation wholly or substantially controlled or financed by the State Government or commission or any committee constituted by the State Government, the office of the said local authority, statutory body, corporation, commission or committee;(i)"records officer" means the officer nominated by the records creating agency under sub-section (1) of section 5.

3. Power of Government to co-ordinate, regulate and supervise operations connected with administration, management, etc., of public records.

(1)The State Government shall have the power to co-ordinate, regulate and supervise the operations connected with the administration, management, preservation, selection, disposal and retirement of public records under this Act.(2)The State Government in relation to the public records of the records creating agencies specified in clause (h) of section 2 may, by order, authorise the Director, subject to such conditions as may be specified in the order, to carry out all or any of the following functions, namely:-(a)supervision, management and control of the Archives;(b)acceptance for deposit of public records of permanent nature after such period as may be prescribed;(c)custody, use and withdrawal of public records;(d)arrangement, preservation and exhibition of public records;(e)preparation of inventories, indices, catalogues and other reference media of public records;(f)analysing, developing, promoting and co-ordinating the standards, procedures and techniques for improvement of the records management system;(g)ensuring the maintenance, arrangement and security to public records in the Department of Archives and in the offices of the records creating agency;(h)promoting utilisation of available space and maintenance of equipments for preserving public records;(i)tendering advice to records creating agencies on the compilation, classification and disposal of records and application of standards, procedures and techniques of records management;(j)survey and inspection of public records;(k)organizing training programmes in various disciplines of Archives administration and records management;(l)accepting records from any private source;(m)regulating access to public records;(n)receiving records from defunct bodies and making arrangement for securing public records in the event of national emergency;(o)receiving reports on records management and disposal practices from the records officer;(p)providing authenticated copies of, or extracts from public, records;(q)destroying or disposal of public records;(r)obtaining on lease or purchasing or accepting as gift any document of historical or national importance.

4. Prohibition against taking of public records out of Maharashtra.

- No person shall take or cause to be taken out of the State of Maharashtra any public records without the prior approval of the State Government: Provided that no such prior approval shall be required if any public records are taken or sent, out of the State of Maharashtra for any official purpose.

5. Records Officer.

(1) Every records creating agency shall nominate one of its officers as records officer to discharge the functions under this Act. (2) Every records creating agency may set up such number of record rooms in such places as it deems fit and shall place each record room under the charge of a records officer.

6. Responsibilities of records officer.

(1) The records officer shall be responsible for, :- (a) proper arrangement, maintenance and preservation of public records under his charge; (b) periodical review of all public records and weeding out public records of ephemeral value; (c) appraisal of public records, which are more than twenty-five years old, in consultation with the Director with a view to retaining public records of permanent value; (d) destruction of public records in such manner and subject to such conditions as may be described under sub-section (1) of section 8; (e) compilation of a schedule of retention for public records, in consultation with the Director; (f) periodical review for downgrading of classified public records in such manner as may be prescribed; (g) adoption of such standards, procedures and techniques as may be recommended from time to time, by the Director for improvement of record management system and maintenance of security of public records; (h) compilation of annual indices of public records; (i) compilation of organizational history and annual supplement thereto; (j) assisting the Director for public records management; (k) submission of annual report to the Director in such manner as may be prescribed; (l) transferring of records of any defunct body to the Director for preservation. (2) The records officer shall act under the direction of the Director while discharging the responsibilities specified in sub-section (1).

7. Records officer to take appropriate action in event of unauthorised removal, destruction, etc., of public records in his custody.

(1) The records officer shall in the event of any unauthorized removal, destruction, defacement or alteration of any public records under his charge, forthwith take appropriate action for the recovery or restoration of such public records. (2) The records officer shall submit a report in writing to the Director without any delay on any information about any unauthorised removal, destruction, defacement or alteration of any public records under his charge and about the action initiated by him and shall take action as he may deem necessary subject to the directions, if any, given by the Director. (3) The records officer may seek assistance from any Government officer or any other person for the purposes of recovery or restoration of the public records and such officer or person shall render all assistance to the records officer.

8. Destruction or disposal of public records.

(1) Save as otherwise provided in any law for the time being in force, no public record shall be destroyed or otherwise disposed of except in such manner and subject to such conditions as may be prescribed. (2) No record, which is more than hundred years old on the date of commencement of the Maharashtra Public Records Act, 2005, shall be destroyed except where in the opinion of the Director, it is so defaced or is in such condition that it cannot be put to any archival use.

9. Penalty for contravention.

- Whoever contravenes any of the provisions of section 4 or section 8 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand rupees or with both.

10. Public records bearing security classification.

- No public records bearing security classification shall be transferred to the Department of Archives.

11. Receipt of records from private sources.

(1) The Department of Archives may, accept any record of historical or national importance from any private source by way of gift, purchase or otherwise. (2) The Department of Archives may, in such manner and subject to such conditions as may be prescribed, make any record referred to in sub-section (1) available to any bona fide research scholar.

12. Access to public records.

(1) All unclassified public records as are more than thirty years old and are transferred to the Department of Archives may be, subject to such exceptions and restrictions as may be prescribed, made available to any research scholar. Explanation. - For the purpose of this sub-section the period of thirty years shall be reckoned from the year of the opening of the public record. (2) Any records creating agency may grant to any person access to any public record in such manner and subject to such conditions as may be prescribed.

13. State Archival Advisory Board.

(1) The State Government may, by notification in the Official Gazette, constitute, for the purposes of this Act, an Archival Advisory Board to be called as the Maharashtra Archival Advisory Board. (2) The Board shall consist of the following members, namely:-

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| (a) the Secretary to Government, Cultural Affairs Department | Ex-officio Chairman; |
| (b) | Ex-officio Members; |

one officer not below the rank of Joint Secretary to Government,
each from General Administration Department,
Finance Department, Revenue Department and Planning
Department

- (c) three persons to be nominated by the State Government for
a period not exceeding three years, one being an Archivist and
two being Professors in the Post-graduate Department of History
in a Statutory University Members;
- (d) the Director of the Department of Archives Ex-officio Member-Secretary
- (3) The members nominated under clause (c) of sub-section (2) shall be paid such allowances as may be prescribed.

14. Functions of Board.

- The Board shall perform the following functions, namely:-(a) advise the State Government on matters concerning the administration, management, conservation and use of public records;(b) lay down guidelines for training of Archivists;(c) give directions for acquisition of records from private custody;(d) deal with such other matters as may be prescribed.

15. Powers of Director to lay down norms and standards for courses in archival science.

- The Director shall have the powers to lay down norms and standards for courses, curricula, assessment and examinations relating to the training in archival science and other ancillary subjects.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

17. Powers to make rules.

(1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a) the period after which public records of permanent nature may be accepted under clause (b) of sub-section (2) of section 3;(b) the manner in which and the conditions subject to which the public records can be destroyed under clause (d) of sub-section (1) of section 6;(c) the manner in which periodical review of classified public records for downgrading shall be undertaken under clause (f) of sub-section (1) of section 6;(d) the manner in which the records officer shall submit annual report to the Director under clause (k) of sub-section (1) of section

6;(e)the manner in which and the conditions subject to which public records may be destroyed or disposed of under sub-section (1) of section 8;(f)the manner in which and the conditions subject to which records of historical or national importance may be made available to a research scholar under sub-section (2) of section 11;(g)exceptions and restrictions subject to which public records may be made available to a research scholar under sub-section (1) of section 12;(h)the manner in which and the conditions subject to which any records creating agency may grant to any person access to public records in its custody under sub-section (2) of section 12;(i)the allowances payable to members of the Board under sub-section (3) of section 13.(j)the matters with respect to which the Board may perform its functions under clause (d) of section 14;(k)any other matter which is required to be, or may be, prescribed for carrying out the purposes of this Act.(3)Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, both Houses agree in making an modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

18. Power to remove difficulty.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.(2)Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.