

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

13 ta' Mejju, 2005

ATT Nru. V ta' l-2005

ATT biex jirregola l-Arkivji Nazzjonali u jagħmel disposizzjonijiet għall-ħatra ta' l-Arkivista Nazzjonali u disposizzjonijiet oħra anċillari għal dan.

Il-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-deputati, imlaqqa' f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

Taqsimi I Preliminari

1. It-titolu ta' dan l-Att hu Att ta' l-2005 dwar Arkivji Nazzjonali, u għandu jibda jsehh f'dik id-data li l-Ministru jista' b'avviż fil-Gazzetta jstabilixxi, u dati differenti jistghu jiġu hekk stabbiliti għal għanijiet differenti u disposizzjonijiet differenti ta' l-Att.

Titolu fil-qosor u
dhul fis-sehh.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx titlob xort'ohra:-

Tifsir.

“Arkivista Nazzjonali” tfisser il-kap ta' l-Arkivji Nazzjonali mahtur taht l-artikolu 5 ta' dan l-Att;

“arkivji” tfisser rekords ta' valur dejjiemi li jintgħazlu għal preservazzjoni permanenti;

“Arkivji Nazzjonali” tfisser l-entità li tissejjah Arkivji Nazzjonali ta' Malta mwaqqfa taht l-artikolu 3 ta' dan l-Att;

“kapijiet ta’ uffiċċji pubbliċi” tfisser is-Segretarji Permanenti, Kapijiet ta’ Dipartimenti tal-Gvern, Uffiċjali Eżekuttivi Ewlenin u uffiċjali f’pożizzjonijiet bħal dawk li jkunu responsabbli għall-amministrazzjoni u l-funzjonament ta’ xi uffiċċju pubbliku;

“il-Kunsill” tfisser il-Kunsill għall-Arkivji Nazzjonali mwaqqaf taht l-artikolu 14 ta’ dan l-Att;

Kap. 363.

“Kunsill Lokali” tfisser kunsill lokali mwaqqaf taht l-Att dwar il-Kunsilli Lokali;

“il-Ministru” tfisser il-Ministru responsabbli għall-Arkivji Nazzjonali;

“ordnat” tfisser ordnat b’regolamenti jew ordnijiet magħmulin taht dan l-Att;

“rekords” tfisser informazzjoni registrata tkun xi tkun l-ghamla jew mezz, oriġinati, riċevuta u miżmuma minn uffiċċju pubbliku konformement ma’ l-obbligazzjonijiet legali tiegħu jew filwaqt li jkun jagħmel l-affarijiet tiegħu u li tkun tati prova tal-twettiq ta’ dawk l-obbligazzjonijiet jew dawk l-affarijiet;

“rekords korrenti” tfisser rekords użati regolarment għat-tmexxija ta’ l-affarijiet korrenti ta’ istituzzjoni;

“rekords privati” tfisser rekords li ma jkunux rekords pubbliċi kif speċifikat fl-Iskeda li tinsab ma’ dan l-Att;

“rekords pubbliċi” tfisser rekords speċifikati fl-Iskeda li tinsab ma’ dan l-Att;

“repositorju ta’ arkivji” tfisser bini jew taqsima ta’ bini fejn jiġu preservati l-arkivji u jkunu disponibbli għall-konsultazzjoni;

“sena finanzjarja” tfisser kull perjodu ta’ tnax-il xahar li jtemm fil-31 ta’ Diċembru:

Iżda l-ewwel sena finanzjarja ta’ l-Arkivji Nazzjonali għandha tibda għaddejja mad-dhul fis-seħh ta’ dan l-Att u għandha ttemm fil-31 ta’ Diċembru tas-sena li tahtat minnufih wara;

“skeda ta’ x’jinżamm u jitnehha” tfisser id-dokument ta’ kontroll li jirreġistra deċiżjonijiet ta’ valutazzjoni u jippreskrivi azzjoni dwar x’jinżamm u jitnehha mir-rekords;

“Uffiċjal inkarigat mir-Rekords” tfisser il-persuna hekk mahtura taht l-artikolu 16 ta’ dan l-Att;

“uffiċjal pubbliku” ghandha l-istess tifsira moghtija lilha bl-artikolu 124 tal-Kostituzzjoni;

“uffiċċju pubbliku” tfisser korp imwaqqaf bil-Kostituzzjoni jew b’kull liġi jew taħtha, jew flimkien ma’ xi soċjeta’ jew korp ieħor fejn il-Gvern ta’ Malta, jew kull korp bħal dak kif hawn aktar qabel imsemmi, ikollhom interess li jikkontrollaw jew li fuqu jkollhom kontroll effettiv.

Taqsimha II

Kostituzzjoni, Kompożizzjoni u Funzjonijiet ta’ l-Arkivji Nazzjonali

3. (1) Ikun hemm korp, li jissejjah Arkivji Nazzjonali ta’ Malta, taht ir-responsabbilta’ ta’ l-Arkivista Nazzjonali. Il-missjoni ta’ l-Arkivji Nazzjonali tkun li tippreserva l-memorja kollettiva tan-nazzjon Malti permezz tal-protezzjoni u l-aċċessibilità ta’ l-arkivji pubbliċi kollha regolati b’dan l-Att. Arkivji Nazzjonali.

(2) L-Arkivji Nazzjonali jkun korp b’personalità ġuridika distinta u li jkun kapaċi, bla hsara għad-disposizzjonijiet ta’ dan l-Att, jagħmel kuntratti, jikseb, iżomm u jneħhi kull proprjeta’ għall-iskop tal-funzjonijiet tiegħu, li jharrek u jiġi mharrek, u li jagħmel affarijiet bħal dawk kif ukoll kull operazzjoni li tista’ tkun inċidentali jew li twassal għall-eżerċizzju jew it-twettiq tal-funzjonijiet tiegħu taht dan l-Att. Personalità ġuridika u rappreżentanza ġudizzjarja.

4. (1) Il-funzjonijiet ta’ l-Arkivji Nazzjonali jkunu li:

Ghanijiet u funzjonijiet ta’ l-Arkivji Nazzjonali.

(a) jhares l-memorja kollettiva tan-nazzjon Malti u jipproteġi d-drittijiet ta’ ċittadini permezz ta’ l-għażla, preservazzjoni u aċċess għall-arkivji b’liema mezz ikun fl-ogħla livell;

(b) jistabbilixxi u jzomm registru li jissejjah Regjistru Nazzjonali ta’ Arkivji;

(c) jissorvelja filwaqt li jkollu s-setgħa li jispezzjona kull Prattika dwar iż-żamma ta’ rekords ġo l-uffiċċji pubbliċi;

(d) jaċċetta u jakkwista rekords privati ta’ ċertu importanza nazzjonali li jsiru b’donazzjoni, xiri, thollija b’wirt jew depożitu;

(e) jipprovdi direzzjoni għall-arkivji Maltin f'dawk l-oqsma bħalma huma l-preservazzjoni ta' rekords ta' arkivji, amministrar ta' rekords u skemi nazzjonali ta' koperazzjoni;

(f) jippromwovi t-tahriġ professjonali ta' arkivisti u amministraturi ta' rekords.

(2) Għall-finijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ir-Registru Nazzjonali ta' Arkivji għandu jkun fih partikolaritajiet, f'dik l-ghamla li l-Arkivista Nazzjonali jqis adatta:

(i) ta' l-arkivji miftuha għall-ispezzjon pubbliku u fejn tkun tinsab il-proprjeta';

(ii) ta' rekords ta' ċertu importanza nazzjonali f'arkivji privati, wara li jkun ingħata l-permess mehtieg mill-proprjetarju tar-rekords; u

(iii) ta' kull dettal jew informazzjoni ohra li jkunu jibbenefikaw il-promozzjoni ta' l-arkivji u l-provvediment ta' faċilitajiet ta' riċerka għall-pubbliku kollu.

Hatra ta' Arkivista Nazzjonali.

5. (1) Ikun hemm Arkivista Nazzjonali li jkun persuna li jkollha kwalifiki professjonali, kompetenza rikonoxxuta u reputazzjoni fil-kamp ta' l-arkivji, u li tkun mahtura mill-Ministru wara konsultazzjoni mal-Kunsill għal perjodu ta' tliet snin taht dawk il-pattijiet u l-kondizzjonijiet li jstgħu jiġu stabbiliti fl-ittra tal-hatra. Meta jiskadilha żmienha dik il-persuna tista' tiġi mahtura mill-ġdid għal perjodu iehor jew perjodi ohra ta' tliet snin:

Iżda l-ewwel Arkivista Nazzjonali jkun mahtur mill-Ministru għal perjodu tal-bidu ta' tliet snin.

(2) Ir-rappreżentanza legali u ġudizzjarja ta' l-Arkivji Nazzjonali għandu jvesti fl-Arkivista Nazzjonali iżda l-Arkivista Nazzjonali jista' jahtar lil xi wiehed jew aktar mill-uffiċjali jew impjegati ta' l-Arkivji Nazzjonali, biex jidher f'ismu u għalih f'kull proċediment ġudizzjarju u fuq kull att, kuntratt, istrument jew dokument iehor ta' liema xorta jkun.

(3) Ikun hemm ukoll Assistent Arkivista Nazzjonali għal Ghawdex bl-istess kwalifiki professjonali bħall-Arkivista Nazzjonali mahtur bl-istess mod u għall-istess perjodu kif hu mahtur l-Arkivista Nazzjonali.

Funzjonijiet u dmirijiet ta' l-Arkivista Nazzjonali.

6. (1) L-Arkivista Nazzjonali jkun l-uffiċjal eżekuttiv ewlieni ta' l-Arkivji Nazzjonali, u jkun ukoll responsabbli għall-preservazzjoni ta' rekords pubbliċi ta' valur dejjiemi li ma jkunux rekords li t-trasferiment seta' ġie pospost taht subartikolu (5) ta' l-artikolu 8 ta' dan l-Att, u għandu b'mod partikolari:

(a) jipprovdi assistenza, parir u direzzjoni professjonali dwar it-twaqqif u t-tmexxija ta' sistemi ta' *filing* u tar-registru f'uffiċċji pubbliċi u dwar it-tahriġ tal-pesunal fl-uffiċċji pubbliċi fuq iż-żamma ta' rekords;

(b) jispezzjona l-prattiċi taż-żamma tar-rekords u s-sistemi ta' uffiċċji pubbliċi li huma obbligati jikkonsenjaw rekords fl-Arkivji Nazzjonali;

(c) jaqbel mal-kapijiet ta' uffiċċji pubbliċi dwar, u jiżgura li ssir l-implementazzjoni ta', l-iskedi dwar x'jinżamm u jitneħħa f'dak li għandu x'jaqsam ma' rekords li jkunu speċifiċi għal kull uffiċċju bħal dak, liema skedi għandhom ikunu awtorità biżżejjed biex tittiehed l-azzjoni speċifikata fid-data kif imiss;

(d) jistabbilixxi u jiżgura konformità ma' standards għat-tmexxija ta' rekords pubbliċi;

(e) jiżgura l-arranġament u deskrizzjoni tal-proprjeta' ta' l-arkivji u jipprovdi sistemi ta' sejbien adatti biex jiffaċilita l-aċċess għalihom;

(f) jiżgura li jkun hemm disponibbli faċilitajiet raġonevoli għall-pubbliku biex ikun jista' jispezzjona u jikseb kopji ta' rekords pubbliċi fl-Arkivji Nazzjonali, sakemm daww ir-rekords ikunu miftuħa għall-ispezzjon taht l-artikolu 10 ta' dan l-Att;

(g) jagħti parir lill-utenti dwar l-użu tar-rekords u l-materjal dokumentarju preservat ta' l-Arkivji, u jkattar l-għarfien ta' l-istorja nazzjonali u jkun ta' sostenn għal kull studju li jsir dwar dan;

(h) jistabbilixxi librerija ta' referenza fuq it-teorija u l-prattika ta' l-arkivji;

(i) jagħmel li tkun magħrufa l-proprjeta' ta' l-Arkivji Nazzjonali billi jorganizza avvenimenti ta' informazzjoni u tagħrif u jislef rekords pubbliċi band'ohra bla ħsara għall-kondizzjonijiet li huwa jista' jispeċifika skond l-artikolu 9 ta' dan l-Att;

(j) jagħmel regoli li għandhom ikunu osservati minn daww li jkunu jridu jikkonsultaw rekords pubbliċi fl-Arkivji Nazzjonali jew f'xi repositorju ta' arkivji iehor li jkun taht il-kontroll tieghu;

(k) jiddisponi minn rekords pubbliċi fil-kustodja tieghu jekk ikun tal-fehma li dawn ma għandhomx għaliex ikunu preservati fl-Arkivji Nazzjonali jew li għandu jkollhom kopji tagħhom

preservati fl-Arkivji Nazzjonali f' dik l-ghamla li jista' jistabbilixxi li tkun suffiċjenti;

(l) jagħmel arrangamenti flimkien ma' istituzzjonijiet oħra għat-tmexxija jew konservazzjoni jew ristawr kongunti ta' arkivji, u biex jiġu provduti faċilitajiet reprografici jew tekniċi oħra; u

(m) ihejji u jbiegħ publikazzjonijiet jew oġġetti li jkollhom x'jaqsmu mal-funzjonijiet tal-Arkivji Nazzjonali.

(2) L-Arkivista Nazzjonali għandu iktar minn hekk:

(a) jassumi responsabbiltà shiha għall-amministrazzjoni u l-organizzazzjoni u l-kontroll amministrattiv ta' l-uffiċjali u l-impjegati ta' l-Arkivji Nazzjonali u għal dak l-ghan għandu jassenja lil kull uffiċjal jew impjegat dawk id-dmirijiet li jistgħu jkunu meħtieġa;

(b) jizviluppa l-istrateġiji meħtieġa għall-implementazzjoni ta' l-oġġettivi ta' l-Arkivji Nazzjonali;

(c) jagħti parir lill-Ministru u lill-Kunsill dwar kull haġa li jistgħu jirriferru jew dwar kull haġa li jista' jqis meħtieġa jew spedjenti;

(d) iwettaq dawk id-dmirijiet l-oħra skond ma l-Ministru jista' jassenjalu minn żmien għal żmien.

Ġurament ta' Segretezza.

7. L-Arkivista Nazzjonali u kull impjegat ta' l-Arkivji Nazzjonali għandu, qabel ma jidhol għad-dmirijiet tiegħu fl-Arkivji Nazzjonali, jiehu l-ġurament imsemmi fl-Ewwel Skeda.

Rekords li għandhom jiġu depożitati fl-Arkivji.

8. (1) Ir-rekords li għandhom jiġu preservati fl-Arkivji Nazzjonali jkunu r-rekords pubbliċi elenkati fit-Tieni Skeda li tinsab ma' dan l-Att.

(2) Dawk l-Arkivji ta' xorta partikolari li huma regolati b'xi liġi oħra li tkun fis-seħh minn żmien għal żmien għandhom jinżammu u jkunu regolati skond dik il-liġi sakemm dawk l-arkivji jkunu preservati u magħmulin aċċessibbli skond standards miftiehma ma' l-Arkivista Nazzjonali.

(3) Minkejja d-disposizzjoni tas-subartikolu (2) hawn aktar qabel, il-Ministru jista' bi ftehim mal-Ministru responsabbli għal xi arkivju partikolari, jordna t-trasferiment ta' dokumenti miżmuma f'dawk l-arkivji għall-Arkivji Nazzjonali, hekk li dan jiġri taht dawk il-

kondizzjonijiet li jistghu jiġu miftiehma bejn il-Ministru u l-Ministru responsabbli għal dawk l-Arkivji; u meta xi dokument bhal dak ikun trasferit għall-Arkivji Nazzjonali dak id-dokument għandu, għall-fini ta' kull liġi li tirregola d-depożitu ta' dak id-dokument fl-arkivji eżistenti, jitqies li huwa depożitat kif imiss skond dik il-liġi, u kull responsabbiltà relattiva għal dak id-dokument, inkluż il-hruġ ta' kopji u estratti minn hemmhekk, kif ukoll l-awtentikazzjoni tiegħu, għandha mat-trasferiment ta' dawk id-dokumenti tkun tvesti fl-Arkivista Nazzjonali.

(4) L-Arkivista Nazzjonali jista' jiċċertifika li xi rekords dipartimentali partikolari li jkunu għaddew minn fuqhom iżjed minn tletin sena ma għandhomx għaliex jiġu trasferiti fl-Arkivji Nazzjonali għall-preservazzjoni, u dawk ir-rekords li jiġu hekk ċertifikati għandhom jinżammu fl-uffiċċji pubbliċi adatti jew, skond il-każ, jintbagħtu lura f' dak l-uffiċċju pubbliku, fejn dawn jistghu jinżammu, jew isir minnhom, bla hsara għall-ghoti ta' awtorizzazzjoni taht l-artikolu 6 ta' dan l-Att.

(5) L-Arkivista Nazzjonali jista' jipposponi li jaċċetta t-trasferiment ta' rekords u arkivji fil-kustodja tiegħu jekk ma jkollux fejn iqeghedhom jew ma jkunx jista' jagħmel arranġamenti ohra biex iżommhom fl-Arkivji tiegħu.

Posponiment ta' trasferiment.

9. (1) Ebda rekord jew oġġett preservat fl-Arkivji Nazzjonali ma jista', minghajr il-permess bil-miktub ta' l-Arkivista Nazzjonali, jinħareġ mill-post fejn ikunu jinsabu l-Arkivji Nazzjonali. Kopja ta' kull permess mogħti mill-Arkivista Nazzjonali għandha tkun preservata fl-Arkivji Nazzjonali u tkun disponibbli għal kull spezzjon.

Ma jistghux jinħarġu rekords mill-Arkivji Nazzjonali minghajr permess.

(2) Ma jista' jsir ebda self ta' rekords pubbliċi barra minn Malta jekk mhux bil-permess bil-miktub tal-Ministru mogħti wara konsultazzjoni mal-Arkivista Nazzjonali u l-Kunsill.

(3) Izda meta dokument li jkun jinsab fl-Arkivji Nazzjonali ikollu jiġi esibit fil-Qorti, jew jiġi xort'ohra użat fl-orijinal tiegħu, l-Arkivista Nazzjonali għandu jesibixxi jew xort'ohra juża l-orijinal wara li jagħmel kopja tiegħu għall-preservazzjoni fl-arkivji jekk dak ikun possibbli.

10. (1) Minkejja d-disposizzjonijiet ta' kull liġi ohra, l-aċċess għal rekords depożitati fl-Arkivji Nazzjonali għandu jkun regolat taht id-disposizzjonijiet ta' dan l-Att.

Aċċess għal rekords.

(2) Ir-rekords pubbliċi fl-Arkivji Nazzjonali, jew f'xi repositorju ta' arkivji iehor taht il-kontroll ta' l-Arkivista Nazzjonali, għandhom ikunu disponibbli għall-ispezzjon pubbliku wara li jgħaddi perjodu ta' tletin sena minn meta jkunu oriġinati, hlief sakemm ma jkunx ġie ordnat mill-Ministru perjodu itwal jew iqsar wara konsultazzjoni mal-Ministru responsabbli għal dak l-uffiċċju pubbliku li jkun oriġina r-rekords jew is-suċċessur fil-qadi tal-funzjonijiet tiegħu.

Meta jiskadi l-perjodu ta' tletin sena ordnat fis-subartikolu (1) rekords li jintgħażlu għal preservazzjoni permanenti li jkunu għadhom klassifikati bhala konfidenzjali, jew sigrieti, għandhom ikunu eżaminati mill-Kunsill sabiex jiġi aċċertat sew jekk ikunx mehtieg li dawn jibqgħu jiġu hekk klassifikati u, jekk dan ma jkunx mehtieg, dawn għandhom jiġu de-klassifikati u jkunu miftuħa għall-ispezzjon pubbliku taht is-subartikolu (1) ta' dan l-artikolu.

(3) Il-Ministru jista', bil-parir ta' l-Arkivista Nazzjonali, jillimita l-aċċess mill-pubbliku għal dokumenti u oġġetti meta: -

(a) dawn ikun fihom informazzjoni li tkun inkisbet minn xi awtorità pubblika taht obligazzjoni ta' segretezza jew konfidenzjalità; jew

(b) is-sigurezza Statali jew is-sigurta' personali ta' xi individwu jkunu hekk jehtiegu; jew

(c) il-fragilità ta' l-Arkivji tkun hekk tehtieg; jew

(d) dan ikun mehtieg biex tkun tista' ssir l-organizzazzjoni ta' l-Arkivji.

(4) Minghajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 9 ta' dan l-Att, kull kopja ta' dokument, mahruġa bhala kopja vera sigillata kif imiss bis-sigill ta' l-Arkivji Nazzjonali u ffirmata mill-Arkivista Nazzjonali, għandha għall-finijiet ta' kull liġi, titqies bhala kopja awtentika u għall-iskop ta' prova f'qorti jew tribunal titqies li hi wahda ekwivalenti għall-original.

Dritt ta' preferenza eżerċitabbli mill-Gvern.

11. (1) Fil-każ ta' bejgħ ta' xi rekord jew dokument li fil-fehma tal-Ministru, wara konsultazzjoni ma' l-Arkivista Nazzjonali, għandu valur arkivistiku jew storiku, il-Gvern ikollu dritt jakkwista l-istess, bi preferenza għal kull persuna ohra bl-istess kondizzjonijiet.

(2) Dak id-dritt ta' preferenza jiġi eżerċitat mill-Arkivista Nazzjonali permezz ta' att ġudizzjarju notifikat lix-xerrej fi żmien xahrejn mid-data li fiha l-bejgiegħ jew ix-xerrej jagħti avviz lill-Ministru, permezz ta' att ġudizzjarju jew ta' ittra reġistrata, dwar il-bejgħ fejn juri l-isem u l-indirizz tax-xerrej u l-kondizzjonijiet tal-bejgħ, jew, jekk ma jingħatax dak l-avviz, fi żmien sitt xhur minn meta l-Ministru jsir jaf li sar bejgħ.

(3) Kull min ikun responsabbli għal xi att jew għal xi ommissjoni li jkollu bhala effett it-tfixkil tad-dritt ta' preferenza li

jappartjeni lill-Gvern skond dan l-artikolu ikun hati ta' offiza taht dan l-Att u jista' jehel il-pieni kontemplati f' dan l-Att.

12. Fl-eżerċizzju tal-funzjonijiet tieghu taht dan l-Att, l-Arkivista Nazzjonali ghandu: Relazzjonijiet mal-Ministru.

(a) jaghti effett, kemm jista' jkun malajr, lil kull ordni, li ma tkunx inkonsistenti ma' xi disposizzjoni ta' dan l-Att, li l-Ministru jista' jaghtih dwar il-politka li ghandha tigi segwita minnu fit-twettiq tal-funzjoni tieghu, u dwar kull haġa li l-Ministru jkun jidhiru li tirrigwarda l-patrimonju nazzjonali dwar l-arkivji;

(b) jipprovdi lill-Ministru faċilitajiet għall-ksib ta' informazzjoni għar-rigward tal-proprjeta' u l-attivitajiet ta' l-Arkivji Nazzjonali, u għal dan l-ghan l-Arkivista Nazzjonali ghandu jghaddi lill-Ministru prospetti, kontijiet u kull informazzjoni oħra dwar il-funzjonijiet ta' l-Arkivji Nazzjonali, u jipprovdi faċilitajiet għall-verifika ta' kull informazzjoni mogħtija, b'dak il-mod u f'dawk il-perjodi skond ma l-Ministru jista' jkun jehtieg.

13. Arkivji Nazzjonali jkunu eżenti mill-hlas ta' kull taxxa, minbarra d-dazju tad-dwana jew tas-sisa, jew taxxa fuq l-*income* jew fuq id-dokumenti li f'dak il-waqt ikunu fis-seħħ f'Malta. Eżenzjoni minn ċertu taxxi.

14. (1) Ikun hemm Kunsill għall-Arkivji Nazzjonali, mahtur mill-Ministru, li jkunu magħmul kif ġej:- Kunsill għall-Arkivji Nazzjonali.

(a) President;

(b) is-Sovrintendent tal-Patrimonju Kulturali *ex officio* jew rappreżentant tieghu;

(c) il-President ta' Patrimonju Malta *ex officio* jew rappreżentant tieghu;

(d) il-Bibljotekarju Nazzjonali *ex officio* jew rappreżentant tieghu;

(e) is-Segretarju Permanenti fl-Uffiċċju tal-Prim Ministru *ex officio* jew ir-rappreżentant tieghu;

(f) persuna li tirrappreżenta arkivji jew ċentri ta' rekords mhux tal-Gvern;

(g) tliet persuni ohra magħżulin minn fost persuni magħrufin li jużaw u li huma familjari ma' l-arkivji, u l-professjonijiet ta' l-amministrazzjoni ta' rekords u informazzjoni, jew li jkunu jahdmu f'organizzazzjonijiet mhux governattivi dedikati għall-informazzjoni u l-arkivji, li persuna minnhom tkun mahtura mill-Ministru responsabbli għal Ghawdex.

(2) L-Arkivista Nazzjonali u l-Assistent Arkivista Nazzjonali għal Ghawdex għandhom jattendu l-laqgħat kollha tal-Kunsill imma f'dawk il-laqgħat ma jkollhomx vot:

Iżda l-Kunsill jista', jekk iqis li jkun hekk adatt, jitlob lill-Arkivista Nazzjonali u l-Assistent Arkivista għal Ghawdex biex ma jattendux xi seduta jew parti minn xi seduta.

(3) Il-membri tal-Kunsill ikunu mahtura għal żmien tliet snin, imma l-membri li jiġu hekk mahtura jkunu eliġibbli biex jinhatru mill-ġdid meta jiskadi ż-żmien tagħhom fil-kariga.

(4) Is-seduti tal-Kunsill għandhom jitlaqqgħu mill-President daqstant drabi daqskemm jista' jkun mehtieg imma mill-inqas darba kull xahrejn jew b'inizjattiva tiegħu jew fuq talba ta' tnejn mill-membri l-oħra.

(5) Nofs l-ghadd tal-membri li f'dak iż-żmien ikunu jikkostitwixxu l-Kunsill jiffurmaw *quorum*. Id-deċiżjonijiet jittiehdu b'maġġoranza sempliċi tal-voti tal-membri preżenti u li jivvotaw. Il-President ikollu vot inizjali u jekk ikun hemm voti ndaqs, vot deċiżiv.

(6) Kull membru li jkollu xi interess dirett jew indirett f'xi kuntratt jew azzjoni ohra magħmula jew proposta li ssir mill-Kunsill f'dak li għandu x'jaqsam ma' l-Arkivji Nazzjonali, għandu jiżvela x-xorta ta' interess li jkollu fl-ewwel laqgħa tal-Kunsill wara li jkun sar jaf bil-fatti relevanti. Dak li jiżvela għandu jkun registrata fil-minuti tas-seduta, u dak il-membru għandu jirtira minn xi seduta fejn dik il-haġa tkun qed tiġi diskussa jew deċiża mill-Kunsill.

(7) Bla hsara għad-disposizzjonijiet ta' dan l-Att u ta' dawk il-proċeduri li jistgħu jkunu ordnati, il-Kunsill għandu jirregola l-proċeduri tiegħu nnifsu.

Funzjonijiet tal-Kunsill.

15. (1) Mingħajr preġudizzju għad-disposizzjonijiet ta' dan l-Att, il-Kunsill għandu:

(a) jippromwovi Arkivji Nazzjonali u entitajiet ohra fejn jinżammu r-rekords;

(b) jiżgura u jiffaċilita l-kollaborazzjoni bejn parteċipanti differenti involuti li jkollhom responsabbiltà diretta jew indiretta biex jiproteġu u jmexxu s-settur ta' l-arkivji;

(c) jaghti pariri lill-Ministru dwar it-tmexxija ta' l-arkivji f'Malta;

(d) jattira l-attenzjoni tal-Ministru jew ta' kull organizzazzjoni jew persuna responsabbli għall-arkivji għal kull azzjoni urgenti li tista' titqies mehtieġa għall-aħjar tmexxija ta' l-arkivji u tar-rekords;

(e) jaghti parir lill-Ministru dwar kull haġa li toriġina mid-disposizzjonijiet ta' dan l-Att u dwar kull haġa ohra li tiġi riferita lilu mill-Ministru.

(2) Il-Kunsill għandu wkoll darba kull sentejn ilaqqa' Forum Nazzjonali dwar l-arkivji biex jiddiskuti l-istat ta' l-arkivji b'mod generali wara li jisma' rapport dwar dan li jithejja mill-Kunsill. Għal dan il-Forum għandhom jiġu mistiedna, fost l-oħrajn, Dipartimenti u entitajiet ohra tal-Gvern, is-Sindki tal-Kunsilli Lokali, sidien ta' arkivji privati u l-arkivisti tagħhom, organizzazzjonijiet mhux governattivi li għandhom interess fiż-żamma u l-harsien ta' l-arkivji u rekords pubbliċi, l-Università ta' Malta, istituzzjonijiet edukattivi ohra, speċjalisti, konsulenti, rappreżentanti tas-settur kummerċjali, persuni li jużaw l-arkivji, u kull parti ohra li turi lill-Kunsill bil-miktub li għandha interess. Il-proċeduri tal-Forum għandhom ikunu ppubblikati u mibghuta lill-Ministru.

(3) Il-Kunsill għandu jagħti avviż pubbliku bil-quddiem xahar qabel ma jiltaqa' l-Forum li għandu jkun immexxi minn President mahtur mill-Kunsill.

16. (1) Ikun hemm f'kull ufficċju pubbliku Ufficċjal jew Ufficċjali inkarigati mir-Rekords. Kull kap ta' ufficċju pubbliku għandu d-dmir jibgħat ta' kull sena prospett lill-Arkivista Nazzjonali b'dettalji dwar l-Ufficċjal inkarigat mir-Rekords u dettalji ohra dwar iż-żamma ta' rekords fl-ufficċju pubbliku tagħhom skond ma jista' jkun mehtieġ mill-Arkivista Nazzjonali.

Responsabbilta' ta'
Ufficċjali
Dipartimentali
inkarigati mir-
Rekords.

(2) L-Ufficċjali inkarigati mir-Rekords ikunu responsabbli joriġinaw u jzommu dokumentazzjoni adegwata tal-funzjonijiet u l-attivitajiet ta' l-ufficċji pubbliċi rispettivi tagħhom billi jstabbilixxu prattika tajba ta' kif jinżammu r-rekords, inkluż:

(a) li joriġinaw u jimmaniġġaw rekords korrenti f'sistemi ta' *filing* u tar-reġistru adatti;

(b) li jabbozzaw ma' l-Arkivista Nazzjonali skedi ta' x'jinżamm u jitnehha f'dak li għandu x'jaqsam ma' rekords speċifiċi għal kull ufficċju pubbliku:

Izda dawk l-iskedi għandhom biss jibdedw isehhu meta jkunu approvati u ffirmati mill-Arkivista Nazzjonali, u fil-każ ta' rekords li

jkun fihom *data* personali, ukoll wara konsultazzjoni mal-Kummissarju għall-Protezzjoni tad-*Data*;

(c) li jimplimentaw skedi ta' x' jinzamm u jitnehha mahruġa skond l-artikolu 6 ta' dan l-Att;

(d) li jipprovdi aċċess għall-Arkivji Nazzjonali għal kull spezzjon ta' rekords skond l-artikolu 6 ta' dan l-Att;

(e) li jgħarraf lill-Arkivista Nazzjonali malli jsir magħruf li xi funzjoni jew funzjonijiet ta' l-uffiċċju pubbliku jkunu se jiġu trasferiti lil xi uffiċċju pubbliku iehor jew organizzazzjoni ohra, jew li xi attività li ssir minn dak l-uffiċċju pubbliku jew attività ta' xi korp iehor konness max-xogħol li jagħmel tkun se tiġi stralċjata;

(f) li jhejji, u jipprovdi Arkivji Nazzjonali b'listi ta' rekords li għandhom jiġu trasferiti għall-Arkivji għal preservazzjoni permanenti skond linji direttivi mahruġa mill-Arkivista Nazzjonali;

(g) li jirranġa l-materjal li għandu jiġi trasferit għall-Arkivji Nazzjonali skond l-aħjar prattika ta' l-arkivji skond qbil ma' l-Arkivista Nazzjonali;

(h) li jipprovdi għat-trasferiment sigur ta' rekords li għandhom jiġu preservati fl-Arkivji Nazzjonali.

Taqsimu III

Provvedimenti Amministrattivi u dwar il-Persunal

Hatriet ta' persunal.

17. (1) Bla hsara għad-disposizzjonijiet tal-Kostituzzjoni u ta' kull liġi ohra inkluż dan l-Att li tapplika dwar dan, il-hatra ta' uffiċċjali u impjegati ohra ta' l-Arkivji Nazzjonali tkunu magħmula mill-Arkivista Nazzjonali. Il-pattijiet u l-kondizzjonijiet ta' l-impjeg ikunu deċiżi mill-Arkivista Nazzjonali bl-approvazzjoni tal-Ministru.

(2) L-Arkivista Nazzjonali għandu jahtar u jimpjega, b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u l-kondizzjonijiet bħalma jista' skond is-subartikolu (1) jiddeċidi, lil dawk l-uffiċċjali u impjegati li jistgħu minn żmien għal żmien ikunu mehtieġa għat-twettiq kif dovut u effiċjenti tal-funzjonijiet ta' l-Arkivji Nazzjonali.

(3) Il-membri tal-Kunsill u l-uffiċċjali u l-impjegati kollha ta' l-Arkivji Nazzjonali għandhom jitqiesu li huma uffiċċjali pubbliċi fil-kuntest tat-tifsira mogħtija fil-Kodiċi Kriminali.

Hatriet u funzjonijiet ta' uffiċċjali u impjegati.

18. (1) Il-Prim Ministru jista', fuq talba ta' l-Arkivista Nazzjonali, minn żmien għal żmien jordna li xi uffiċċjal pubbliku, jiġi

mqabbad jaqdi dmirijiet mal-Arkivji Nazzjonali f'dik il-kariga u minn dik id-data li tista' tkun speċifikata fl-ordni.

(2) Il-perjodu li matulu ordni kif hawn aktar qabel imsemmija ghandha tkun tapplika ghal xi ufficjal speċifikat fiha ghandu, kemm-il darba l-ufficjal ma jirtirax mis-servizz pubbliku, jew jekk xort'ohra jtemm milli jibqa' fil-kariga f'data li tigi qabel, jkun dak li jista' jigi speċifikat fl-ordni, kemm-il darba l-ordni ma tigix revokata qabel mill-Prim Ministru.

Trasferiment ta' ufficjali pubblici.

(3) Meta xi ufficjal jigi mqabbad jaqdi dmirijiet mal-Arkivji Nazzjonali skond dan l-artikolu, dak l-ufficjal ghandu, fiz-żmien li matulu dak l-ordni jkollu effett dwaru, ikun taht l-awtorità amministrattiva u l-kontroll ta' l-Arkivista Nazzjonali imma ghandu ghal kull skop iehor jibqa' u jitqies u jkun ittrattat bhala ufficjal pubbliku.

Status ta' ufficjali pubblici.

(4) Minghajr preġudizzju ghall-ġeneralità ta' dak hawn qabel imsemmi, ufficjal pubbliku mqabbad jaqdi dmirijiet kif hawn aktar qabel imsemmi:

(a) ma ghandux filwaqt li dak l-ufficjal ikun hekk imqabbad jaghmel -

(i) ikun prekluz milli japplika ghal trasferiment ghal xi dipartiment tal-Gvern skond il-pattijiet u l-kondizzjonijiet ta' servizz marbuta mal-hatra mal-Gvern li dak l-ufficjal pubbliku kellu f'data meta jkun gie mqabbad jaqdi dmirijiet; jew

(ii) ikun hekk impjegat li r-rimunerazzjoni u l-kondizzjonijiet ta' servizz jkunu inqas favorevoli minn dawk marbuta mal-hatra mal-Gvern li kellu dak l-ufficjal pubbliku fid-data meta jkun gie mqabbad jaqdi dmirijiet kif hawn aktar qabel imsemmi jew li kienu jkunu marbuta ma' dik il-hatra, matul il-perjodu msemmi, li kieku dak l-ufficjal ma jkunx gie mqabbad jaqdi dmirijiet ma' l-Arkivji Nazzjonali; u

Kap. 93.
Kap. 58.

(b) ikollu jedd li jkollu s-servizz tieghu ma' l-Arkivji Nazzjonali meqjus bhala servizz mal-Gvern ghall iskop ta' kull pensjoni, gratwità jew benefiċċju taht l-Ordinanza dwar il-Pensjonijiet, u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u ta' kull dritt jew privileġġ iehor li dak l-ufficjal pubbliku jkun intitolat ghalih, u jkun responsabbli ghal dak kollu li jkun responsabbli ghalih, hlief ghall-fatt li jkun qieghed jigi mqabbad jaqdi dmirijiet ma' l-Arkivji Nazzjonali.

(5) Meta ssir applikazzjoni kif hemm provdut fis-subartikolu (4)(a)(i), ghandha tinghata l-istess konsiderazzjoni ghal dan daqslikieku

l-applikant ma kienx gie mqabba jaqdi dmirijiet ma' l-Arkivji Nazzjonali.

(6) L-Arkivji Nazzjonali ghandha thallas lill-Gvern, fejn dan japplika, daww il-kontribuzzjonijiet li jistghu minn zmien ghal zmien jigu decizi mill-Ministru responsabbli ghall-finanzi dwar in-nefqa tal-pensjonijiet u gratwitajiet li jinqalghu minn ufficjal imqabba jaqdi dmirijiet ma' l-Arkivji Nazzjonali kif hawn aktar qabel imsemmi matul il-perjodu li fih dak l-ufficjal ikun hekk imqabba jaghmel.

Offerti ta' impjeg permanenti lil ufficjali pubblici mqabba jaqdu dmirijiet ma' l-Arkivji Nazzjonali.

19. (1) L-Arkivji Nazzjonali tista', bl-approvazzjoni tal-Prim Ministru, toffri lil xi ufficjal mqabba jaqdi dmirijiet ma' l-Arkivji Nazzjonali taht xi disposizzjoni ta' l-artikolu 18 impjeg permanenti maghha b'dik ir-rimunerazzjoni u b'daww il-pattijiet u l-kondizzjonijiet li ma jkunux inqas favorevoli minn daww gawduti minn dak l-ufficjal fid-data ta' dik l-offerta.

(2) Il-pattijiet u l-kondizzjonijiet li jkun hemm f'xi offerta maghmula kif hawn aktar qabel imsemmi ma ghandhomx ikunu hekk li jitqiesu li jkunu inqas favorevoli ghaliex biss ma jkunux f'kull rigward identici ma' jew superjuri ghal daww gawduti mill-ufficjal involut fid-data ta' dik l-offerta, jekk daww il-pattijiet u l-kondizzjonijiet, kollha flimkien, fil-fehma tal-Prim Ministru jkunu joffru beneficcji sostanzjalment ekwivalenti jew akbar.

(3) Kull ufficjal li jacetta impjeg permanenti ma' l-Arkivji Nazzjonali, taht id-disposizzjonijiet tas-subartikolu (1), ghandu ghall-finijiet kollha li ma jkunx daww ta' l-Ordinanza dwar il-Pensjonijiet, u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, jitqies li jkun temm li jkun fis-servizz tal-Gvern u li jkun dahal ghas-servizz ma' l-Arkivji Nazzjonali fid-data ta' dik l-acsettazzjoni u ghall-finijiet ta' l-imsemmija Ordinanza u ta' l-imsemmi Att, sakemm dawn japplikaw ghal dak l-ufficjal, servizz ma' l-Arkivji Nazzjonali ghandu jitqies li jkun servizz mal-Gvern fil-parametri tat-tifsiriet taghhom rispettivament.

Kap. 93.
Kap. 58.

(4) Kull tali ufficjal kif hawn aktar qabel imsemmi li minnufih qabel ma jacetta impjeg permanenti ma' l-Arkivji Nazzjonali kellu jedd li jibbenefika taht l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, ghandu jibqa' hekk intolat li jibbenefika kif hawn iktar qabel indikat ghal kull fini bhallikieku s-servizz ma' l-Arkivji Nazzjonali kien servizz mal-Gvern.

(5) L-Arkivji Nazzjonali ghandha thallas lill-Gvern daww il-kontribuzzjonijiet li jistghu minn zmien ghal zmien ikunu decizi mill-Ministru responsabbli ghall-finanzi dwar in-nefqa ta' pensjonijiet u

gratwitajiet li jinqalghu minn uffiċjal li jkun aċċetta impjeg permanenti magħha kif hawn aktar qabel imsemmi matul il-perjodu li jibda għaddej fid-data meta dak l-uffiċjal jaċċetta.

(6) (a) Għall-finijiet ta' dan l-artikolu l-karigi u gradi ta' salarji ma' l-Arkivji Nazzjonali għandhom ikun kklassifikati fil-grad li l-aktar jikkorrispondu fil-viċin u livelli inkriminali fis-servizz mal-Gvern ta' Malta b'riferenza għal *job description*, kapacitajiet, responsabbiltajiet u fatturi ohra analogi.

(b) Il-klassifikazzjoni msemmija fil-paragrafu (a) għandha ssir mill-Bord magħmul minn President mahtur mill-Ministru responsabbli għall-finanzi u żewġ membri ohra, wiehed mahtur mill-Ministru responsabbli ċentralment għall-politka dwar il-persunal fis-servizz pubbliku u l-iehor mahtur mill-Arkivista Nazzjonali. Il-klassifikazzjoni tkun bla hsara għall-approvazzjoni finali tal-Ministru responsabbli għall-finanzi.

(ċ) Dik il-klassifika għandha ssir fi żmien tliet xhur minn kull aġġustament ta' salarji ta' l-impjegati fis-servizz tal-Gvern, u, jew, ta' l-impjegati ta' l-Arkivji Nazzjonali.

(d) Ebda kariga ma għandha tkun ikklassifikata fi grad oghla minn dak ta' grad 3 fis-servizz tal-Gvern jew dak il-grad iehor li l-Ministru responsabbli għall-finanzi jista' minn żmien għal żmien b'avviz fil-Gazzetta jiddeċidi.

(e) Mingħajr preġudizzju għad-disposizzjonijiet ta' l-artikolu 113 tal-Kostituzzjoni, hadd ma jista', minhabba fi klassifikazzjoni kif hawn aktar qabel imsemmi, jkun intitolat għal drittijiet taht l-imsemmija Ordinanza dwar il-Pensjonijiet li jkun inqas favorevoli minn dawk li dwarhom dik il-persuna kienet tkun intitolata qabel dik il-klassifikazzjoni.

Taqsim V

Disposizzjonijiet Finanzjarji

20. (1) Mingħajr preġudizzju għal dawn id-disposizzjonijiet li ġejjin ta' dan l-artikolu, l-Arkivji Nazzjonali għandha hekk tmexxi l-affarijiet tagħha li jsir kull sforz biex kemm jista' jkun l-Arkivji Nazzjonali tara li n-nefqa mehtieġa għat-twettiq adatt tal-funzjonijiet tagħha jithallas mid-dhul tagħha.

Id-dhul ta' l-Arkivji Nazzjonali.

(2) Ghal dak l-ghan l-Arkivista Nazzjonali ghandu jgbor dawk id-drittijiet, rati u hlasijiet ohra preskritti jew li jitqiesu li jkun preskritti minn jew taht dan l-Att jew kull ligi ohra.

(3) L-Arkivji Nazzjonali ghandha tithallas minghand il-Gvern mill-Fond Konsolidat dawk l-ammonti ta' flus li l-Kamra tista' minn zmien ghal zmien tawtorizza li ghandhom jigu approprjati biex minnhom jithallsu l-ispejjez ta' xi xoghlijiet speċifikati sabiex dawn jitkomplew jew xort'ohra jsiru mill-Arkivji Nazzjonali, li jkunu xoghlijiet ta' infrastruttura jew ta' xorta kapitali simili, jew biex minnhom tithallas kull spiża li jista' jkollha u li ma tkunx tista' thallas mid-dhul taghha.

(4) Kull dhul ghandu, bla hsara ghal dawk id-direttivi li l-Ministru, wara li jikkonsulta lill-Ministru responsabbli ghall-finanzi, jista' minn zmien ghal zmien jaghti, jkun applikat ghall-Arkivji Nazzjonali ghall-finijiet taghha, u minghajr preġudizzju ghall-generalità tal-poteri moghtija lill-Ministru b'dan is-subartikolu, kull ordni moghtija mill-Ministru kif hawn aktar qabel imsemmi tista' tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'dak il-mod kif jista' jkun speċifikat fl-ordni, ta' xi parti tad-drittijiet, rati u hlasijiet ohra miġbura skond subartikolu (2) ta' dan l-artikolu.

Poter ta' self ta' kapital.

21. (1) Ghall-finijiet ta' kull htieġa ta' xorta kapitali, l-Arkivji Nazzjonali tista', bl-approvazzjoni bil-miktub tal-Ministru f'konsultazzjoni mal-Ministru responsabbli ghall-finanzi, tissellef jew tikseb flus b'dak il-mod, minghand dik il-persuna, korp jew awtorità, u taht dawk il-pattijiet u kondizzjonijiet li l-Ministru, wara konsultazzjoni kif hawn aktar qabel imsemmi, jista' japprova bil-miktub.

(2) L-Arkivji Nazzjonali tista' wkoll, bl-approvazzjoni bil-miktub tal-Ministru f'konsultazzjoni mal-Ministru responsabbli ghall-finanzi, minn zmien ghal zmien tissellef, b'*overdraft* jew xort'ohra, dawk l-ammonti li tista' tehtieġ ghat-twettiq tal-funzjonijiet taghha taht dan l-Att.

Flus li jinghataw bil-quddiem mill-Gvern.

22. Il-Ministru responsabbli ghall-finanzi jista', wara li jikkonsulta lill-Ministru, jghaddi flus bil-quddiem lill-Arkivji Nazzjonali f'dawk l-ammonti li l-Ministru responsabbli ghall-finanzi jista' jaqbel li jkunu mehtieġa ghat-twettiq ta' xi funzjoni taghha taht dan l-Att, u jista' jghaddi dawk il-flus bil-quddiem b'dawk il-pattijiet u kondizzjonijiet li l-Ministru responsabbli ghall-finanzi jista', wara konsultazzjoni kif hawn aktar qabel imsemmi, jidhirlu li jkun xieraq. Kull flus hekk mghoddija bil-quddiem jistghu jigu ordnati mill-Ministru responsabbli ghall-finanzi mill-Fond Konsolidat, u minghajr ebda

approprjazzjoni ulterjuri hlief ghal dan l-Att, b'*warrant*, li jawtorizza lill-*Accountant General* li jghaddi dawk il-flus bil-quddiem.

23. (1) L-Arkivista Nazzjonali ghandu jara li tiġi mhejjija f'kull sena finanzjarja, u ma ghandux iktar tard minn tmien ġimgħat qabel tmiem kull sena finanzjarja jadotta, estimi tad-dhul u nfieq tagħha ghas-sena finanzjarja li tiġi minnufih wara:

Estimi ta' l-Arkivji Nazzjonali.

Izda l-estimi ta' l-Arkivji Nazzjonali għall-ewwel sena finanzjarja tagħha ghandu jithejja u jiġi adottat f'dak iż-żmien li l-Ministru jista' b'avviż bil-miktub jispeċifika lill-Arkivji Nazzjonali.

(2) L-estimi għandhom isiru f'dawk is-suriet u jkun fihom dik l-informazzjoni u dawk il-paraguni ma' l-estimi ta' qabel hekk kif il-Ministru responsabbli għall-finanzi jista' jordna.

(3) Kopja ta' l-estimi għandha, meta dawn jiġu adottati mill-Arkivista Nazzjonali, jintbatu minnufih lill-Ministru u lill-Ministru responsabbli għall-finanzi.

24. (1) Ma għandha ssir jew tiġġarrab ebda nefqa mill-Arkivji Nazzjonali kemm-il darba din ma tkunx giet approvata mill-Kamra.

In-nefqa skond l-estimi approvati.

(2) Minkejja d-disposizzjonijiet tas-subartikolu (1) -

(a) sa l-iskadenza ta' sitt xhur mill-bidu ta' xi sena finanzjarja, jew sakemm issir l-approvazzjoni ta' l-estimi għal dik is-sena mill-Kamra, skond liema data tiġi l-ewwel, l-Arkivji Nazzjonali tista' tagħmel jew iġġarrab in-nefqa għat-twettiq tal-funzjonijiet tagħha taht dan l-Att f'ammont li b'kollox ikun ta' mhux iżjed minn nofs l-ammont approvat ghas-sena finanzjarja li tiġi minnufih qabel;

(b) in-nefqa approvata għar-rigward ta' xi kap jew sotto-kap ta' l-estimi tista', bl-approvazzjoni tal-Ministru, tiġġarrab dwar xi kap jew sotto-kap ieħor ta' l-estimi;

(ċ) dwar l-ewwel sena finanzjarja, l-Arkivji Nazzjonali tista' tagħmel jew iġġarrab in-nefqa sakemm l-approvazzjoni ta' l-estimi għal dik is-sena mill-Kamra f'dak l-ammont li b'kollox ma jkunx iżjed minn kemm il-Ministru responsabbli għall-finanzi jista', wara li jikkonsulta lill-Ministru, jippermetti;

(d) jekk dwar xi sena finanzjarja jinsab li l-ammont approvat mill-Kamra ma jkunx suffiċjenti, jew jekk tqum neċessità li ssir nefqa għal xi għan li ma jkunx hemm provdut dwarha fl-estimi, l-Arkivji Nazzjonali tista' tadotta estimi supplementari għall-

approvazzjoni tal-Kamra u sakemm tinghata dik l-approvazzjoni, l-Arkivji Nazzjonali tista' f'ċirkostanzi speċjali u bl-approvazzjoni tal-Ministru, li jaġixxi f'konsultazzjoni mal-Ministru responsabbli għall-finanzi, iġġarrab in-nefqa relattiva jew parti minnha kif dak il-Ministru jista' hekk japprova, u f'kull każ bhal dak id-disposizzjonijiet ta' dan l-Att li japplikaw għall-estimi għandhom, skond kemm ikun prattiku, japplikaw għall-estimi supplimentari.

Kontijiet u verifika.

25. (1) L-Arkivista Nazzjonali għandu jara li jinżammu kotba ta' kontijiet u reġistrazzjonijiet ohra kif imiss dwar l-operat ta' l-Arkivji Nazzjonali u għandu jara li tithejja dikjarazzjoni ta' kontijiet dwar kull sena finanzjarja.

(2) Il-kontijiet ta' l-Arkivji Nazzjonali għandhom ikunu verifikati minn awditur jew awdituri li jinhatru minnha u li jkunu approvati mill-Ministru:

Izda l-Ministru responsabbli għall-finanzi jista' jehtieg li l-kotba u reġistrazzjonijiet ohra ta' l-Arkivji Nazzjonali jiġu verifikati jew eżaminati mill-Awditur Ġenerali li għal dan l-għan ikollu poter li jagħmel dik il-verifika fiżika u kull verifika ohra, u jista' jkun jehtieg dik l-informazzjoni, hekk kif l-Awditur Ġenerali jista' jqis li tkun mehtieġa.

(3) Wara tmiem kull sena finanzjarja, fl-istess hin li kopja ta' l-estimi ta' l-Arkivji Nazzjonali tintbagħat lill-Ministru taht l-artikolu 23, l-Arkivista Nazzjonali għandu jara li kopja tad-dikjarazzjoni ta' kontijiet verifikata kif imiss tkun mibghuta lill-Ministru u lill-Ministru responsabbli għall-finanzi flimkien mal-kopja ta' kull rapport magħmul mill-awditur jew awdituri dwar dik id-dikjarazzjoni jew dwar il-kontijiet ta' l-Arkivji Nazzjonali.

(4) Il-Ministru għandu jara li kopja ta' kull dikjarazzjoni u rapport bhal dawk jitqieghdu quddiem il-Kamra.

Depożitu ta' kull
dhul u hlas mill-
Arkivji Nazzjonali.

26. (1) Il-flejjes kollha ta' l-Arkivji Nazzjonali għandhom jitqieghdu f'bank jew banek li jinhatru bankiera minnha. Dawk il-flejjes għandhom, skond kemm ikun prattiku, jitqieghdu fil-banek minn jum għall-iehor, hlief għal dak l-ammont li l-Arkivji Nazzjonali tista' tehtieg li żżomm biex thallas minnu nefqiet zġhar u ta' minnufih.

(2) Il-hlasijiet kollha li jsiru mill-fondi ta' l-Arkivji Nazzjonali, hlief għal nefqiet zġhar ta' mhux iżjed minn dak l-ammont li jista' jkun stabbilit mill-Arkivista Nazzjonali bl-approvazzjoni tal-Ministru, għandhom isiru minn dak l-uffiċjal jew uffiċjali ta' l-Arkivji Nazzjonali li jistgħu jiġu mahtura jew imsemmija għal dak l-iskop.

(3) Ċekkijiet li jirrigwardaw u rtirar ta' flejjes minn xi kont tal-bank ta' l-Arkivji Nazzjonali ghandhom ikunu ffirmati minn dak l-uffiċjal ta' l-Arkivji Nazzjonali li jista' jiġi mahtur jew imsemmi mill-Arkivista Nazzjonali ghal dak l-ghan u ghandu jgħib il-kontrofirma tal-membri jew uffiċjal awtorizzat ta' l-Arkivji Nazzjonali kif jista' jkun awtorizzat mill-Arkivista Nazzjonali ghal dak l-ghan.

(4) L-Arkivista Nazzjonali ghandu wkoll jipprovdi dwar –

(a) il-mod li bih u l-uffiċjal jew uffiċjali li ghandhom jawtorizzaw jew japprovaw il-hlasijiet;

(b) it-titolu ta' xi kont li jinżamm fil-bank jew banek fejn ghandhom jithallsu l-flejjes tagħha, u t-trasferiment ta' fondi minn kont għall-iehor;

(ċ) il-metodu li ghandu jiġi adottat biex isiru hlasijiet mill-fond tagħha; u

(d) b'mod ġenerali għar-rigward ta' kull haġa li hija rilevanti għaž-żamma kif imiss u l-kontroll tal-kontijiet, kotba u rekords ohra u l-kontroll tal-finanzi tagħha.

27. L-Arkivji Nazzjonali ma ghandhiex, hlief bl-approvazzjoni tal-Ministru mogħtija wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, tagħti jew tagħmel xi kuntratt għall-provvista ta' oġġetti jew materjal jew għall-eskuzzjoni ta' xogħol jew għall-ghoti ta' servizzi lil jew għall-benefiċċju ta' l-Arkivji Nazzjonali, li l-Arkivista Nazzjonali jistma li tkun tinvolvi nefqa ta' iżjed minn tliet elef lira jew kull ammont ieħor skond ma l-Ministru responsabbli għall-finanzi jista' jawtorizza, hlief wara li tagħti avviż dwar l-intenzjoni li jkollha li tagħmel dak il-kuntratt ikun ġie ppubblikat u jkunu nhargu sejhiet għal offerti kompetittivi.

Kuntratti ta' provvista u ta' xoghlijiet.

28. L-Arkivista Nazzjonali ghandu, mhux iktar tard minn sitt ġimgħat wara tmiem kull sena finanzjarja, jagħmel u jgħaddi lill-Ministru u lill-Ministru responsabbli għall-finanzi, rapport li jkun jittratta b'mod ġenerali dwar l-attivitajiet ta' l-Arkivji Nazzjonali matul dik is-sena finanzjarja, u li jkun fih dik l-informazzjoni għar-rigward tal-proċedimenti u l-politka tagħha hekk kif xi wiehed mill-imsemmija Ministri jista' minn żmien għal żmien jehtieg. Il-Ministru ghandu, mhux iżjed tard minn erba' ġimgħat minn meta jasallu dak ir-rapport, jara li kopja ta' kull rapport bħal dak titqiegħed fuq il-Mejda tal-Kamra.

Rapport annwali.

Taqsimha V

Trasferiment ta' ċertu proprjetà lill-Arkivji Nazzjonali

Trasferiment ta'
attiv lill-Arkivji
Nazzjonali.

29. (1) Il-proprjetà u l-intrapriżi proprjetà tal-Gvern u minnu użati minnufih qabel id-data tad-dhul fis-sehh ta' din it-Taqsimha ta' dan l-Att għat-thaddim tal-funzjonijiet li b'dan l-Att qegħdin jiġu trasferiti lil jew vestiti fl-Arkivji Nazzjonali, għandhom, fid-data hawn qabel imsemmija, bis-saħħa ta' dan l-Att u mingħajr ebda assikurazzjoni oħra, jkunu trasferiti lil u jiġu vestiti fl-Arkivji Nazzjonali taħt l-istess titolu li bih kienu miżmuma mill-Gvern minnufih qabel dik id-data. Id-disposizzjonijiet ta' dan is-subartikolu ma għandhomx japplikaw għal proprjeta' immobbli.

(2) L-użu u l-amministrazzjoni ta' l-attiv immobbli minn żmien għal żmien speċifikati f'ordni magħmula mill-Ministru responsabbli għall-artijiet f'konsultazzjoni mal-Ministru u ppubblikata fil-Gazzetta (hawn iżjed 'il quddiem imsejjah "l-attiv immobbli") li jkun attiv immobbli li, minnufih qabel id-dhul fis-sehh ta' din it-Taqsimha ta' dan l-Att, kien proprjetà tal-Gvern u minnu użati għat-thaddim tal-funzjonijiet li b'dan l-Att qegħdin jiġu trasferiti lil jew vestiti fl-Arkivji Nazzjonali, għandhom, b'seħħ minn dik il-ġurnata li tista' tkun speċifikata f'xi ordni bħal dik u bis-saħħa ta' dan l-Att u mingħajr ebda assikurazzjoni oħra, jkunu vestiti fl-Arkivji Nazzjonali.

(3) It-trasferiment u l-vestment hawn qabel imsemmija għandhom jestendu għal dik il-proprjeta' u dawk l-intrapriżi kollha kemm huma u, mingħajr preġudizzju għall-ġeneralità hawn qabel imsemmija, għandhom jinkludu kull impjant, tagħmir, apparat, strument, vettura, inġenju, bini, struttura, stallazzjoni, art, triq, xogħol, hażna u proprjeta' oħra, mobbli jew immobbli, attiv, setgħa, jedd u privileġġ u kull haġa meħtieġa jew anċillari għal dawn, li jkunu qegħdin jinżammu jew jiġu gawduti f'konnessjoni magħhom jew li jkunu jappartjenu għalihom, kif ukoll kull obligazzjoni li tolqot jew tkun konnessa ma' xi proprjeta' jew intrapriżi hawn qabel imsemmija jew xi haġ' oħra fihom inkluża kif hawn qabel imsemmija.

(4) Kull trasferiment ta' proprjetà, kemm mobbli kemm immobbli, għandu jkun soġġett għal dawk il-pattijiet u l-kondizzjonijiet kollha li l-Ministru jista' jqis meħtieġa sabiex jiżgura li dik il-proprjeta' tkun esklużivament użata għall-finijiet tal-funzjonijiet ta' l-Arkivista Nazzjonali jew għal finijiet anċillari għal dan.

Kif jiftehmu
liġijiet, eċċ.

30. Bla hsara għad-disposizzjonijiet ta' dan l-Att, kull liġi, regola, regolament, ordni, sentenza, digriet, lodi, att, titolu, kuntratt, ftehim,

istrument, dokument, mandat u arrangament iehor, li jkun jeżisti minnufih qabel id-data tad-dhul fis-sehh ta' din it-Taqsima ta' dan l-Att li jolqot jew ikun konness ma' xi wahda mill-proprjetajiet jew intrapriżi trasferiti lill-Arkivji Nazzjonali b'dan l-Att jew tahtu, jkollu kull sehh u effett kontra jew favur l-Arkivji Nazzjonali, u ghandu jkun fis-sehh liberament u effettivament, bhallikieku minflok il-Gvern jew l-awtorità tal-Gvern, kien hemm imsemmi jew kien hemm parti fih l-Arkivji Nazzjonali, u hekk ukoll fis-sostituzzjoni tal-Gvern jew l-awtorità tal-Gvern.

Taqsima VI

Reati

31. (1) Kull min:

(a) jirċevi jew iżomm xi rekord pubbliku meta jkun jaf li dan ikun ġie mneħhi f'Malta kontra l-liġi jew li ġie illegalment esportat minn xi pajjiż iehor; jew

(b) ifixkel, jostakola, jimmoleta jew jindahal lil, jew jittanta ifixkel, jostakola, jimmoleta jew jindahal lil, xi uffiċjal jew impjegat ta' l-Arkivji Nazzjonali jew xi uffiċjal tal-pulizija fl-eżekuzzjoni tad-dmirijiet li hemm provdut dwarhom taht dan l-Att, jew jonqos milli jhars xi ordni leġittima li tinghata minn xi uffiċjal jew impjegat jew uffiċjal tal-pulizija bhal daww kif hawn aktar qabel imsemmi, jew xjentement jaghti lil daww l-uffiċjali jew impjegati xi informazzjoni falza jew jonqos jew jirrofta milli jaghti xi informazzjoni meħtieġa minn jew taht dan l-Att,

Tneħhija mhux awtorizzata jew qirda jew hsara ta' rekords pubbliċi.

ikun hati ta' reat kontra dan l-Att u jista' jehel, meta jinsab hati, multa ta' mhux inqas minn mitejn lira u mhux iżjed minn hamest elf lira, jew prigunerija għal żmien mhux iżjed minn tliet snin, jew għal dik il-multa u prigunerija flimkien:

Iżda, bla hsara għall-ogħla pieni hawn mogħtija, l-inqas multa li hati jista' jehel taht dan l-artikolu ma għandhiex tkun inqas minn kemm jiġi jiswa xi xogħol li jista' jkun meħtieġ bħala rimedju għall-effetti tar-reat.

(2) Il-qorti għandha, minbarra li tagħti l-piena msemmija f'dan l-artikolu, tordna lil min jinsab hati biex ineħhi dak li jikkaġuna r-reat u biex iregġa' lura għal li kien dak li jkun sar mingħajr

awtorizzazzjoni fi żmien suffiċjenti għal dak l-iskop u, jekk il-hati jonqos milli jhares xi ordni bħal dik fiż-żmien hekk stabbilit, huwa jista' jehel multa oħra ta' mhux inqas minn hamsa u ghoxrin lira u mhux iżjed minn hamsin lira, skond ma l-qorti tista' tistabbilixxi, għal kull ġurnata li matulha jibqa' għaddej in-nuqqas wara li jiskadi dak iż-żmien.

(3) Kull rekord pubbliku li jkun ġie jew li jista' jiġi mneħhi mingħajr awtorizzazzjoni kif imiss taht dan l-Att, jista' jingabar lura mill-Arkivista Nazzjonali.

Taqsimha VII

Mixxellanji

Drittijiet ta' l-awtur.

32. (1) Meta l-Arkivista Nazzjonali jkun qed jirrendi disponibbli għall-ispezzjon jew ikun qed jipprovdi rekords li jkunu fil-kustodja tiegħu, huwa ma jkunx qed jikser id-drittijiet ta' l-awtur ta' dawk ir-rekords.

(2) Li jiġu provduti kopji ta' rekords mill-Arkivista Nazzjonali ma jimplika it-trasferiment ta' ebda drittijiet ta' l-awtur dwarhom lil min dawn jiġu trasferiti.

(3) Il-pubblikazzjoni ta' kopji *facsimile* ta' rekords fil-kustodja ta' l-Arkivista Nazzjonali li fihom ikunu jissussistu drittijiet ta' l-awtur li jappartjenu lill-Gvern ta' Malta hu projbit hlief bil-kunsens ta' l-Arkivista Nazzjonali u bla hsara għal dawk il-kondizzjonijiet bħalma l-Arkivista Nazzjonali jista' jkun jehtieg u għall-hlas ta' dawk id-drittijiet li jistgħu jkunu ordnati taht dan l-Att.

Setgħa ta' għemil ta' regolamenti.

33. Il-Ministru jista', wara konsultazzjoni ma' l-Arkivista Nazzjonali, jagħmel regolamenti biex jagħti effett għal kull disposizzjoni hawn qabel imsemmija ta' dan l-Att, jew biex jirregola jew xort'oħra jipprovdi dwar kull haġa li għandha x'taqsam ma' rekords pubbliċi, u jista' b'mod partikolari, imma mingħajr preġudizzju għall-ġeneralitajiet ta' dak hawn qabel imsemmi, jagħmel regolamenti għal kull haġa minn dawn li ġejjin:

(a) it-tmexxija u l-preservazzjoni kif imiss ta' rekords pubbliċi u l-mod kif il-pubbliku jista' jkollu aċċess għal dokumenti u oġġetti fl-Arkivji Nazzjonali;

(b) l-istandards u l-mod kif jistgħu jsiru kopji u riproduzzjonijiet ta' dokumenti u oġġetti oħra fl-Arkivji Nazzjonali;

(c) li jiġu stabbiliti d-drittijiet u l-hlasijiet li jistgħu jiġu mhallsa minn jew taht, jew għal servizzi li jingħataw konformement mad-disposizzjonijiet ta' dan l-Att;

(d) li jiżguraw l-aħjar twettiq tal-funzjonijiet ta' l-Arkivji Nazzjonali, l-Arkivista Nazzjonali, u l-Kunsill;

(e) li jirregolaw il-hatra ta' uffiċjali u impjegati mal-Arkivji Nazzjonali;

(f) li jistabbilixxu linji direttivi dwar l-aħjar Prattika ta' preservazzjoni;

(g) li jipprovdu dwar kull formola jew proċedura li tista' tkun meħtieġa jew spedjenti u li dwarha ma jkun hemm ebda proċedura espressa f'dan l-Att;

(h) li jirregolaw l-ispostament ta' rekords pubbliċi u l-perjodi ta' żmien li fihom l-istess rekords jibqgħu magħluqin għall-ispezzjon pubbliku;

(i) li, meta ma jkunx providut xort'ohra f'dan l-Att, jagħmlu regoli biex jirregolaw is-setgħat u d-dmirijiet li għandha l-Arkivji Nazzjonali u l-proċeduri li għandhom jiġu segwiti minnha;

(j) li jemendaw l-Iskeda li tinsab ma' dan l-Att;

(k) li jippreskrivu kull haġa ohra li tista' jew li għandha tkun preskritta taht dan l-Att.

34. Rekords u materjal ieħor li jkunu fil-kustodja tal-Kuratur ta' l-Arkivji Nazzjonali fil-ġurnata qabel id-dhul fis-seħh ta' dan l-Att huma b'dan trasferiti għall-kustodja ta' l-Arkivista Nazzjonali bla hsara għal kull patt u kondizzjoni li kienu qabel japplikaw għal dawk ir-rekords u materjal ieħor f'dik il-ġurnata.

Disposizzjonijiet transitorji dwar rekords fl-Arkivji Nazzjonali.

35. (1) L-Att dwar l-Arkivji Nazzjonali, u r-regoli u regolamenti magħmulin tahtu huma b'dan imhassra.

Thassir u emendi.

Kap. 339.

(2) Kull referenza f'xi Atti u regolamenti ohra għall-Arkivji Nazzjonali ta' Malta jew għall-Kuratur ta' l-Arkivji Nazzjonali għandhom jiftiehem bhala li japplikaw għall-Arkivji Nazzjonali jew għall-Arkivista Nazzjonali li hemm fihom u kull referenza għall-Att dwar l-Arkivji Nazzjonali għandha tiftiehem bhala referenza għal dan l-Att.

Emenda ta' l-Att
dwar il-Professjoni
Notarili u Arkivji
Notarili, Kap. 55.

36. F' subartikolu (3) ta' artikolu 22 ta' l-Att dwar il-Professjoni Notarili u l-Arkivji Notarili, il-kliem "ikunu li jirċievu dawk l-atti biss li fihom ikun parti l-Gvern jew xi enti morali mwaqqaf b'ligi", ghandhom jiġu sostitwiti bil-kliem "ikunu li jirċievu dawk l-atti biss li fihom ikunu parti l-Gvern jew xi enti morali mwaqqaf b'ligi jew, skond kif jista' jiġi awtorizzat mill-Ministru f'kull każ, xi soċjetà jew korp iehor li fih il-Gvern ta' Malta jew xi korp iehor kif intqal qabel, ikollom sehem bizżejjed biex jikkontrollaw jew fuqu jkollom kontroll effettiv,".

Emenda tal-Kodiċi
Kriminali, Kap. 9.

37. Il-Kodiċi Kriminali ghandu jiġi emendat kif ġej:

(a) fl-artikolu 144 tal-Kodiċi:

(i) f' subartikolu (1) ta' l-artikolu, minflok il-kliem "prigunerija minn tlettax-il xahar sa tliet snin" ghandhom jidhlu l-kliem "multa ta' mhux inqas minn mitejn lira u mhux iżjed minn għaxart elef lira jew il-piena ta' prigunerija minn tlettax-il xahar sa seba' snin jew dik il-multa u prigunerija flimkien";

(ii) minnufih wara s-subartikolu (2) ta' l-artikolu, ghandu jidhol dan is-subartikolu ġdid li ġej:

"(3) Meta l-qirida, mutilazzjoni, hsara, jew bidla ta' xi haġa minn dawk imsemmija fis-subartikolu (1) ta' l-artikolu 144 issir minhabba f'nuqqas ta' prudenza, negliġenza, nuqqas ta' hila f'sengħa jew professjoni jew minhabba fin-nuqqas ta' osservanza ta' xi regolament, il-hati jista' jehel multa ta' mhux iżjed minn erbat elef lira jew prigunerija għal żmien mhux iżjed minn tliet snin jew dik il-multa u prigunerija flimkien.";

(b) fl-artikolu 279 tal-Kodiċi, minflok il-kliem "seba' snin." ghandhom jidhlu l-kliem "seba' snin:" u minnufih wara ghandu jidhol dan il-proviso li ġej:

"Izda meta għal xi raġuni msemmija fis-subartikolu (2) ta' l-artikolu 325 ma jkunx possibbli li jiġi stmat il-valur tal-haġa misruqa, dak il-valur ghandu jiġi stmat li jkun jeċċedi l-elf lira."; u

(c) minnufih wara paragrafu (h) ta' l-artikolu 271 tal-Kodiċi ghandu jidhol dan il-paragrafu ġdid li ġej:

"(i) meta jsir fuq records pubbliċi kif imfissra fl-artikolu 2 ta' l-Att dwar Arkivji Nazzjonali.".

L-EWWEL SKEDA

(Artikolu 7)

Forma tal-Ġurament

Jiena, nahlef/solennement niddikjara illi bil-fedeltà u l-onestà kollha naqdi d-dmir tiegħi bhala Arkivista Nazzjonali/impjegat ta' l-Arkivji Nazzjonali, skond il-htigiet ta' l-Att tal-2005 dwar l-Arkivji Nazzjonali ta' Malta, u ta' l-ordnijiet kollha mahruġa tahtu, u li fil-qadi tad-dmirijiet tiegħi taht dak l-Att u dawk l-ordnijiet, hlief meta l-informazzjoni tkun saret pubblika, ma nikxifx u ma nxandarx, waqt l-impieg tiegħi bhala Arkivista Nazzjonali/impjegat ta' l-Arkivji Nazzjonali, u fl-ebda żmien wara, xi haġa li nsir naf biha li ghandha x'taqsam ma' xi persuna, dipartiment tal-Gvern jew ufficċju pubbliku minhabba fl-impieg tiegħi bhala ufficċjal ta' l-Arkivji Nazzjonali.

(Hekk Alla jghini).

IT-TIENI SKEDA

(Artikolu 8)

Lista ta' Rekords Pubbliċi

1. Rekords u arkivji pubbliċi li ghandhom jiġu preservati f' repositurju ta' arkivji li jaqa' taht ir-responsabbilta' ta' l-Arkivji Nazzjonali huma dawk ir-rekords u arkivji oriġinati, riċevuti u konservati mill-:

- (a) Uffiċċju tal-President
- (b) Kamra tar-Rappreżentanti
- (ċ) Uffiċċju tal-*Cabinet* tal-Ministri

(d) xi ministeru, dipartiment, kummissjoni, awtorità, aġenzija jew uffiċċju pubbliku iehor:

Izda fil-każ ta' korporazzjonijiet pubbliċi jew parastatali, jew organizzazzjonijiet pubbliċi li huma jew ġew privatizzati, il-provvedimenti ta' din l-Iskeda japplikaw biss sad-data meta l-Gvern ta' Malta jew xi korp tiegħu jew kontrollat minnu ma' jibqax ikollu kontroll effettiv.

(e) minn xi Ambaxxata jew rappreżentanza tal-Gvern Malti barra minn Malta jew minn xi uffiċċjal li jkun qed jaqdi dmirijietu f' dik il-kariga

(f) mill-Kummissjoni Elettorali jew minn xi kumitat jew uffiċċjal tagħha

(g) mill-Qrati tal-Ġustizzja, jew minn xi qorti ohra jew tribunal iehor li jkollhom ġurisdizzjoni f' Malta jew minn xi mhallef, maġistrat jew uffiċċjal iehor ta' dik il-qorti

(h) minn xi Kunsill Lokali jew awtorità, kumitat jew sotto-kumitat jew uffiċċjal tiegħu

(i) minn xi predeċessor jew suċċessor ta' xi waħda minn dawk l-istituzzjonijiet, korpi jew individwi hawn aktar qabel imsemmija fil-paragrafi a - h

(j) minn xi korp jew individwu iehor hekk imsemmi mill-Ministru b' regolamenti magħmulin skond dan l-Att.

2. Rekords li joriġinaw mill-Ministeru għal Ghawdex, minn sezzjonijiet ta' Ghawdex ta' dipartimenti governattivi, u minn entitajiet pubbliċi mwaqqfa Ghawdex, għandhom ikunu depożitati fis-sezzjoni ta' Ghawdex ta' l-Arkivji Nazzjonali.

3. Dawk ir-rekords pubbliċi u l-arkivji kollha li filwaqt tad-dhul fis-seħħ ta' dan l-Att kienu fil-kustodja ta' l-Arkivji Nazzjonali ta' Malta għandhom jitqiesu bhala rekords pubbliċi għall-finijiet ta' dan l-Att.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 265 ta' l-10 ta' Mejju, 2005.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

13th May, 2005

ACT No. V of 2005

AN ACT to regulate the National Archives, and to make provisions for the appointment of the National Archivist and for other dispositions ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Part I

Preliminary

Short title and coming into force.

1. The title of this Act is the National Archives Act, 2005, and it shall come into force on such date as the Minister may by notice in the Gazette establish, and different dates may be so established for different purposes and different provisions thereof.

Interpretation.

2. In this Act, unless the context otherwise requires:-

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

“archives” means records of enduring value selected for permanent preservation;

“Council” means the National Archives Council established under article 14 of this Act;

“current records” means records regularly used for the conduct of the current business of an institution;

“financial year” means any period of twelve months ending on the 31st December:

Provided that the first financial year of the National Archives shall begin on the coming into force of this Act and shall end on the 31th December of the next following year.

“heads of public offices” means the Permanent Secretaries, Heads of Departments of Government, Chief Executive Officers and officials in comparable positions responsible for the administration and operation of any public office;

“Local Council” means a local council established under the Local Councils Act;

Cap. 363.

“Minister” means the Minister responsible for the National Archives;

“National Archives” means the entity called the National Archives of Malta established under article 3 of this Act;

“National Archivist” means the head of the National Archives appointed under article 5 of this Act;

“prescribed” means prescribed by regulations or orders made under this Act;

“private records” means records other than public records as specified in the Schedule of this Act;

“public office” means any body established by the Constitution or by or under any law, or with any partnership or other body in which the Government of Malta, or any such body as aforesaid, have a controlling interest or over which they have effective control;

“public officer” has the same meaning assigned to it by article 124 of the Constitution;

“public records” means the records specified in the Second Schedule to this Act;

“records” means recorded information regardless of form or medium created, received and maintained by any public office in pursuance of its legal obligations or in the transaction of its business and providing evidence of the performance of those obligations or that business;

“Records Officer” means the person so appointed under article 16 of this Act;

“retention and disposal schedule” means the control document recording appraisal decisions and prescribing retention or disposal action in respect of records.

Part II

Constitution, Composition and Functions of the National Archives

National Archives. **3.** (1) There shall be a body, to be called the National Archives of Malta, under the responsibility of the National Archivist. The mission of the National Archives is to preserve the collective memory of the Maltese nation through the protection and accessibility of all public archives regulated by this Act.

Legal personality and judicial representation. (2) The National Archives shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

Objects and functions of the National Archives.

4. (1) The functions of the National Archives shall be:

(a) to safeguard the collective memory of the Maltese nation and protect the rights of citizens through the selection, preservation and access to the archives in whatever medium to the highest of standards;

(b) establish and maintain a register to be known as the National Register of Archives;

(c) to monitor with powers of inspection the record-keeping practices within public offices;

(d) accept and acquire private records of national significance by gift, purchase, bequest or deposit;

(e) provide leadership to Maltese archives in such areas as preservation of archival records, records management and national cooperation schemes;

(f) promote the professional training of archivists and records managers.

(2) For the purposes of sub-paragraph (b) of paragraph (1) of this article, the National Register of Archives shall contain particulars, in such form as the National Archivist considers appropriate, of:

(i) archives open for public inspection and location of holdings;

(ii) records of national significance in private archives, after the necessary permission has been granted by the owner of the records; and

(iii) any other details or information which will benefit the promotion of the archives and the provision of research facilities to the general public.

5. (1) There shall be a National Archivist who shall be a person with professional qualifications, recognised competence and reputation in the domain of archives, and who shall be appointed by the Minister following consultation with the Archives Council for a period of three years under such terms and conditions as is established in his letter of appointment. On the expiry of his term such a person may be re-appointed for a further term or terms of three years:

Appointment of
National Archivist.

Provided that the first National Archivist shall be appointed by the Minister for an initial period of three years.

(2) The legal and judicial representation of the National Archives shall vest in the National Archivist provided that the National Archivist may appoint any one or more of the officers or employees of the National Archives, to appear in his name and on his behalf in any judicial proceedings and on any act, contract, instrument or other document whatsoever.

(3) There shall also be an Assistant National Archivist for Gozo with the same professional qualifications as the National Archivist and who shall be appointed in the same manner and for the same periods of time as the National Archivist.

6. (1) The National Archivist shall be the chief executive officer of the National Archives, and he shall also be responsible for the preservation of all public records of enduring value other than any records whose transfer may have been deferred under subarticle(5) of article 8 of this Act, and shall in particular:

(a) provide professional assistance, advice and guidance on the establishment and management of filing and registry systems in public offices and on the training of the staff of public offices in record keeping;

(b) inspect the record keeping practices and systems of public offices which are obliged to deliver records to the National Archives;

(c) agree with the heads of public offices on, and ensure the implementation of, the retention and disposal schedules relating to records specific to each such office, which schedules shall be sufficient authority for taking the action specified at the due date;

(d) establish and ensure compliance with standards for the management of public records;

(e) ensure the arrangement and description of the archival holdings and provide appropriate finding aids to facilitate access to them;

(f) ensure that reasonable facilities are available to the public for inspecting and obtaining copies of public records in the National Archives, insofar as such records are open to inspection under article 10 of this Act;

(g) give advice to users on the use of the preserved records and documentary material of the Archives, and increase the knowledge of national history and support studies in it;

(h) establish a reference library on archival theory and practice;

(i) make the holdings of the National Archives known by organising outreach events and the lending of public records elsewhere subject to conditions which he may specify in line with article 9 of this Act;

(j) prescribe rules to be observed by those wishing to consult public records in the National Archives or any other archival repository under his control;

(k) dispose of public records in his custody if in his opinion they do not warrant preservation by the National Archives or the preservation by the National Archives of copies of them in such form as he may determine will suffice;

(l) enter into arrangements with other institutions for the joint management or conservation or restoration of archives, and for the provision of reprographic or other technical facilities; and

(m) prepare and sell publications or objects related to the functions of the National Archives.

(2) The National Archivist shall furthermore:

(a) assume full responsibility for the administration and organization and the administrative control of the officers and employees of the National Archives and for such purpose assign to each officer or employee such duties as may be required;

(b) develop the necessary strategies for the implementation of the objectives of the National Archives;

(c) advise the Minister and the Council on any matter they may refer to him or on any matter which he considers necessary or expedient;

(d) perform such other duties as the Minister may assign to him from time to time.

7. The National Archivist and every employee of the National Archives shall, before assuming duties in the National Archives, subscribe to the oath contained in the First Schedule.

Oath of Secrecy.

8. (1) The records to be preserved in the National Archives shall be the public records listed in the Second Schedule to this Act.

Records to be deposited in the Archives.

(2) Archives of a particular nature which are regulated by any other law, in force from time to time shall be kept and shall be regulated in accordance with that law provided that such archives are preserved and made accessible according to standards agreed upon with the National Archivist.

(3) Notwithstanding the provision of sub-article (2) above, the Minister may in concurrence with the Minister responsible for a particular archive, order the transfer of documents kept in such archives to the National Archives, and this under such conditions as may be

agreed upon by the Minister and the Minister responsible for those Archives; and where any such document is transferred to the National Archives, for the purpose of any law regulating the deposit of that document in the existing archives, such document shall be deemed to be properly deposited in accordance with such law, and all responsibility relative to such document, including the issue of copies and extracts therefrom, as well as the authentication thereof, shall upon the transfer of such documents vest in the National Archivist.

(4) The National Archivist may certify that particular departmental records which are more than thirty years old do not warrant transfer to the National Archives for preservation, and any records so certified shall be retained in the appropriate public office or, as the case may be, returned to that public office, where they may be retained, or disposed of, subject to the granting of an authorisation under article 6 of this Act.

Deferment of
Transfer.

(5) The National Archivist may defer the acceptance of the transfer of records and archives into his custody if accommodation for them is not available or other arrangements for their reception cannot be made.

Records may not be
taken out of the
National Archives
without permission.

9. (1) No record or object preserved in the National Archives may, without the written permission of the National Archivist, be taken out from the premises of the National Archives. A copy of every permission granted by the National Archivist shall be preserved in the National Archives and shall be available for inspection.

(2) Loans of public records outside Malta may not be made without the written permission of the Minister given following consultation with the National Archivist and the Council.

(3) Provided that where a document to be found in the National Archives is to be exhibited in Court, or otherwise used in the original, the National Archivist shall exhibit or otherwise use the original after making a copy thereof for preservation in the archives if that is possible.

Access to records.

10. (1) Notwithstanding the provisions of any other law, when a record is deposited at the National Archives public access to such records shall only be regulated by the provisions of this Act.

(2) Public records in the National Archives, or in any other archival repository under the control of the National Archivist, shall be available for public inspection after the expiration of a period of thirty years from their creation, except insofar as a longer or shorter period may have been prescribed by the Minister following consultation with

the Minister responsible for the public office which created the records or its successor in function.

At the expiration of the period of thirty years prescribed in subsection (1) any records selected for permanent preservation which are still classified as confidential, or secret shall be examined by the Council to ascertain whether their continuing classification is necessary and, if it is not, they shall be de-classified and shall become open to public inspection under subarticle (1) of this article.

(3) The Minister may, on the advice of the National Archivist, limit access by the public to documents and objects where: -

(a) they contain information which has been obtained by a public authority under an obligation of secrecy or confidentiality; or

(b) the security of the State or the personal safety of any individual so require; or

(c) the fragility of the archives so warrants; or

(d) the need for organisation of the archives makes it necessary.

(4) Without prejudice to the provisions of article 9 of this Act, every copy of a document, issued as a true copy duly sealed with the seal of the National Archives and signed by the National Archivist, shall for the purposes of any law, be deemed an authentic copy and for the purpose of evidence in any court or tribunal be deemed equivalent to the original.

11. (1) In case of sale of any record or work which in the opinion of the Minister, following consultation with the National Archivist, has archival or historical importance, the Government shall have the right of acquiring the same in preference to all other persons on equal conditions.

Right of preference exercisable by the Government.

(2) Such right of preference shall be exercised by the National Archivist by means of a judicial act served on the purchaser within two months from the date on which the vendor or the purchaser gives notice to the Minister, by means of a judicial act or a registered letter, of the sale indicating the name and address of the purchaser and the conditions of sale, or, if no such notice is given, within six months

on which it shall come to the knowledge of the Minister that a sale has been effected.

(3) Any person who is responsible for any act or omission having the effect of frustrating the exercise of the right of preference appertaining to the Government under this article shall be guilty of an offence under this Act and shall be liable for the penalties contemplated in this Act.

Relations with the Minister.

12. In the exercise of his functions under this Act, the National Archivist shall:

(a) give effect, as soon as practicable, to any direction, not inconsistent with any provision of this Act which the Minister may give to him, in relation to the policy to be followed by him in the discharge to his function, and in relation to any matter which appears to the Minister to affect the nation's archival heritage;

(b) afford to the Minister facilities for obtaining any information with regard to the property and activities of the National Archives, and for this purpose the National Archivist shall furnish the Minister with returns, accounts and other information with respect to the functions of the National Archives, and afford facilities for the verification of any information furnished, in such manner and at such times as the Minister may require.

Exemption from certain taxes.

13. The National Archives shall be exempt from any liability for payment of any tax, other than customs or excise duties, or tax on income or duty on documents for the time being in force in Malta.

National Archives Council.

14. (1) There shall be a National Archives Council, appointed by the Minister, which shall be composed as follows:-

(a) a Chairperson;

(b) the Superintendent of Cultural Heritage *ex officio* or his representative;

(c) the Chairperson of Heritage Malta *ex officio* or his representative;

(d) the National Librarian *ex officio* or his representative;

(e) the Permanent Secretary in the office of the Prime Minister *ex officio* or his representative;

(f) a person to represent the non-governmental archives or records centres;

(g) three other persons chosen from amongst persons known to be users of and familiar with archives, records management and information professions, or working in non-governmental organizations dedicated to information and archives, one of whom shall be appointed by the Minister responsible for Gozo.

(2) The National Archivist and the Assistant National Archivist for Gozo shall attend all the meetings of the Council but shall not vote at such meetings:

Provided that the Council may, if it deems so fit, require the National Archivist and the Assistant National Archivist for Gozo not to attend any of the meetings or any part of a meeting.

(3) The members of the Council shall be appointed for a term of three years, but the members so appointed shall be eligible for reappointment on the expiration of their term of office.

(4) The meetings of the Council shall be called by the Chairperson as often as may be necessary but at least once every two months either on his own initiative or at the request of any two of the other members.

(5) Half the number of the members for the time being constituting the Council shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairperson shall have an initial vote and in the event of an equality of votes, a casting vote.

(6) Any member who has a direct or indirect interest in any contract or other action made or proposed to be made by the Council in connection with the National Archives, shall disclose the nature of his interest at the first meeting of the Council after the relevant facts have come to his knowledge. Such disclosure shall be recorded in the minutes of the meeting, and such member shall withdraw from any meeting while such matter is discussed or decided upon by the Council.

(7) Subject to the provisions of this Act and to such procedures as may be prescribed, the Council shall regulate its own proceedings.

15. (1) Without prejudice to the provisions of this Act, the Council shall:

Functions of the Council.

(a) promote the National Archives and other record keeping entities;

(b) ensure and facilitate the collaboration between the different stakeholders with direct or indirect responsibility for the protection and management of the archives sector;

(c) advise the Minister on the management of archives in Malta;

(d) draw the attention of the Minister or of any organisation or person responsible for archives to any urgent action that may be considered necessary for the better management of archives and records;

(e) advise the Minister on any matter arising from the provisions of this Act and on any other matter referred to it by the Minister.

(2) The Council shall also biannually convene a National Forum about the archives to discuss the state of the archives generally after receiving a relative report to be drawn up by the Council. There shall be invited to attend at such Forum, among others, Departments and other Government entities, Mayors of Local Councils, owners of private archives and their archivists, non-governmental organisations having an interest in the maintenance and safeguarding of archives and public records, the University of Malta, other education institutions, specialists, consultants, representatives of the commercial sector, persons who make use of the archives, and any such other party showing to the Council in writing that it has an interest therein. The Forum procedures shall be published and sent to the Minister.

(3) The Council shall give public notice one month in advance of the meeting of the Forum which shall be chaired by the President who is to be appointed by the Council.

Responsibility of
Departmental
Records Officers.

16. (1) There shall be in every public office a Records Officer or Officers. It shall be the duty of every head of public office to send a yearly return to the National Archivist with details of the Records Officer and other details about the upkeep of records in their public office as may be required by the National Archivist.

(2) Records Officers shall be responsible for creating and maintaining adequate documentation of the functions and activities of their respective public offices through the establishment of good records keeping practices, including;

(a) creating and managing current records within appropriate filing and registry systems;

(b) drafting with the National Archivist retention and disposal schedules relating to records specific to each public office:

Provided that such schedules shall only come into effect when approved and signed by the National Archivist, and in the case of records containing personal data, also after consultation with the Commissioner for Data Protection;

(c) implementing retention and disposal schedules issued in accordance with article 6 of this Act;

(d) provide access to the National Archives for inspections of records in accordance with article 6 of this Act;

(e) inform the National Archivist as soon as it is known that a function or functions of the public office will be transferred to another public office or organisation, or that an activity carried on by the public office or an activity of some other body connected with its work is to be wound up;

(f) prepare, and provide the National Archives with, lists of records to be transferred to the Archives for permanent preservation in accordance with guidelines issued by the National Archivist;

(g) arrange the material to be transferred to the National Archives according to archival best practice agreed with the National Archivist;

(h) provide for the safe transfer of records to be preserved at the National Archives.

Part III

Administrative and Personnel Provisions

17. (1) Subject to the provisions of the Constitution and of any other law including this Act applicable thereto, the appointment of officers and other employees of the National Archives shall be made by the National Archivist. The terms and conditions of employment shall be determined by the National Archivist with the approval of the Minister.

Staff appointments.

(2) The National Archivist shall appoint and employ, at such remuneration and upon such terms and conditions as he may in accordance with subarticle (1) determine, such officers and employees

Appointments and functions of officers and employees.

as may from time to time be necessary for the due and efficient discharge of the functions of the National Archives.

(3) The members of the Council, all officers and employees of the National Archives shall be deemed to be public officers within the meaning of the Criminal Code.

Detailing of public officers.

18. (1) The Prime Minister may, at the request of the National Archivist, from time to time direct that any public officer, shall be detailed for duty with the National Archives in such capacity and with effect from such date as may be specified in the direction.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, be such as may be specified in the direction, unless the direction is revoked earlier by the Prime Minister.

Status of public officers.

(3) Where any officer is detailed for duty with the National Archives in accordance with this article, such officer shall during the time in which such direction has effect in relation to him, be under the administrative authority and control of the National Archivist but shall for other intents and purposes remain and be considered and treated as a public officer.

(4) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid:

(a) shall not during the time while such officer is so detailed -

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by that public officer at a date on which he was detailed for duty; or

(ii) be so employed that the remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by that public officer at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the National Archives; and

(b) shall be entitled to have the service with the National Archives considered as service with the Government for the purpose of any pension, gratuity or benefit under the Pensions

Cap. 93.
Cap. 58.

Ordinance, and the Widows' and Orphans' Pensions Act, and of any other right or privilege to which that public officer would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the National Archives.

(5) Where an application is made as provided in subarticle (4)(a)(i) above, the same consideration shall be given thereto as if the applicant had not been detailed for duty with the National Archives.

(6) The National Archives shall pay to the Government, where applicable, such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the National Archives as aforesaid during the period in which such officer is so detailed.

19. (1) The National Archives may, with the approval of the Prime Minister, offer to any officer detailed for duty with it under any of the provisions of article 18 permanent employment at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

Offers of permanent employment to public officers detailed for duty with the National Archives.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the National Archives, under the provisions of subarticle (1), shall for all purposes other than those of the Pensions Ordinance, and of the Widows' and Orphans' Pensions Act, be deemed to have ceased to be in service with the Government and to have entered into service with the National Archives on the date of such acceptance and for the purposes of the said Ordinance and of the said Act, so far as applicable to that officer, service with the National Archives shall be deemed to be service with the Government within the meanings thereof respectively.

Cap. 93.
Cap. 58.

(4) Every such officer as aforesaid who immediately before accepting permanent employment with the National Archives was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if service with the National Archives was service with the Government.

(5) The National Archives shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with it as aforesaid during the period commencing on the date of such officer's acceptance.

(6) (a) For the purposes of this article the posts and salary grades with the National Archives shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) shall be carried out by a board composed of a chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Ministry responsible centrally for personnel policies in the public service and one appointed by the National Archivist. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three months of any adjustment of salaries of employees in the Government service, and, or, of employees of the National Archives.

(d) No post shall be classified in a grade higher than that of grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

(e) Without prejudice to the provisions of article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which that person would have been entitled prior to such classification.

Part IV

Financial Provisions

Revenues of the
National Archives.

20. (1) Without prejudice to the following provisions of this article, the National Archives shall so conduct its affairs that every effort shall be made to meet as much as possible of the expenditure required for the proper performance of its functions out of its revenues.

(2) For such purpose the National Archivist shall levy such fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law.

(3) The National Archives shall be paid by Government out of the Consolidated Fund such sums as the House, may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by the National Archives, being works of infrastructure or a similar capital nature, or to meet any of its expenditure which it cannot meet out of its own revenue.

(4) Any revenue shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied to the National Archives for its purposes, and without prejudice to the generality of the powers given to the Minister by this subarticle, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees rates and other payments levied in accordance with subarticle (2) of this article.

21. (1) For the purposes of any requirements of a capital nature, the National Archives may, with the approval in writing of the Minister in consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

Power to borrow capital.

(2) The National Archives may also, with the approval of the Minister in consultation with the Minister responsible for finance, from time to time borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act.

22. The Minister responsible for finance may, after consultation with the Minister, make advances to the National Archives of such sums as the Minister responsible for finance may agree to be required for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister responsible for finance may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant, authorising the Accountant General to make such advance.

Advances from Government.

23. (1) The National Archivist shall prepare in every financial year, and shall not later than eight weeks before the end of each financial year adopt, estimates of the income and expenditure for the next following financial year:

Estimates of the National Archives.

Provided that the estimates of the National Archives for its first financial year shall be prepared and adopted within such time as the Minister may by notice in writing specify to the National Archives.

(2) The estimates shall be made in such forms and shall contain such information and such comparisons with previous estimates as the Minister responsible for finance may direct.

(3) A copy of the estimates shall, upon their adoption by the National Archivist, be sent forthwith to the Minister and to the Minister responsible for finance.

Expenditure
according to the
approved estimates.

24. (1) No expenditure shall be made or incurred by the National Archives unless it has been approved by the House.

(2) Notwithstanding the provisions of subarticle (1) –

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the House, whichever is the earlier date, the National Archives may make or incur expenditure for carrying out its functions under this Act not exceeding in the aggregate one-half of the amount approved for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, be incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first financial year, the National Archives may make or incur expenditure until the approval of the estimates for that year by the House not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;

(d) if in respect of any financial year it is found that the amount approved by the House is not sufficient, or if a need has arisen for expenditure for a purpose not provided for in the estimates, the National Archives may adopt supplementary estimates for approval by the House and pending such approval, the National Archives may in special circumstances and with the approval of the Minister, acting in consultation with the Minister responsible for finance, incur the relative expenditure or part thereof as the said Minister may so approve, and in any such case the provisions of this Act applicable to the estimates shall, as near as practicable, apply to the supplementary estimates.

25. (1) The National Archivist shall cause to be kept proper books of account and other records in respect of the operations of the National Archives and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the National Archives shall be audited by an auditor or auditors to be appointed by it and approved by the Minister:

Provided that the Minister responsible for finance may require the books and other records of the National Archives to be audited or examined by the Auditor General who shall for this purpose have power to carry out such physical checking and other verification, and may require such information, as the Auditor General may deem necessary.

(3) After the end of each financial year, at the same time as a copy of the estimates of the National Archives is forwarded to the Minister under article 23, the National Archivist shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditor or auditors on that statement or on the accounts of the National Archives.

(4) The Minister shall cause a copy of every such statement and report to be laid before the House.

26. (1) All moneys accruing to the National Archives shall be paid into a bank or banks appointed as bankers by it. Such moneys shall, as far as practicable, be paid into the banks from day to day, except for such sum as the National Archivist may require to retain to meet petty disbursements and immediate payments.

Deposit of revenues and payment by the National Archives.

(2) All payments out of the funds of the National Archives, except petty disbursements not exceeding such sum as may be fixed by the National Archivist with the approval of the Minister, shall be made by such officer or officers of the National Archives as shall be appointed or designated for the purpose.

(3) Cheques against and withdrawals from any bank account of the National Archives shall be signed by such officer of the National Archives as may be appointed or designated by the National Archivist for that purpose and shall be countersigned by the authorised member or officer of the National Archives as may be authorised by the National Archives for that purpose.

(4) The National Archives shall also make provision with respect to -

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which its monies are to be paid, and the transfer of funds from one account into another;

(c) the method to be adopted in making payments out of its fund; and

(d) generally with respect to any matter which is relevant to the proper keeping and control of the accounts, books and other records and the control of its finances.

Contracts of supply and of works.

27. The National Archives shall not, except with the approval of the Minister granted after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of work or for the rendering of services, to or for the benefit of the National Archives, which is estimated by the National Archivist to involve an expenditure exceeding three thousand Liri, or such other amount as the Minister responsible for finance may authorize, except after notice of its intention to enter into such contract has been published and competitive tenders have been issued.

Annual report.

28. The National Archivist shall, not later than six weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the National Archives during that financial year and containing such information relating to its proceedings and policy as either of the said Ministers may from time to time require. The Minister shall, not later than four weeks from the receipt of such report, cause a copy of every such report to be laid on the Table of the House.

Part V

Transfer of certain Assets to the National Archives

Transfer of assets to the National Archives.

29. (1) The property and undertakings owned by the Government and used by it immediately before the date of the coming into force of this Part of this Act, for the operation of any of the functions which by this Act are being transferred to or vested in the National Archives shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and vested in the National Archives

under the same title by which they were held by the Government immediately before the said date. The provisions of this subarticle shall not apply to immovable property.

(2) The use and administration of the immovable assets from time to time specified in the Order made by the Minister responsible for lands in consultation with the Minister and published in the Gazette (hereinafter referred to as “the immovable assets”) being immovable assets which immediately before the coming into force of this Part of this Act were owned by the Government and used by it for the operation of any of the functions which by this Act are being transferred to or vested in the National Archives, shall, with effect from such day as may be specified in any such Order and by the virtue of this Act and without any further assurance, be vested in the National Archives.

(3) The transfer and vesting aforesaid shall extend to the whole of such property and undertakings and, without prejudice to the generality aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, craft, buildings, structures, installations, land, roads, works, stocks and other property movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other thing included therein as aforesaid.

(4) Any transfer of property, whether moveable or immovable, shall be subject to all those terms and conditions that the Minister may deem necessary to ensure that such property is exclusively used for the purposes of the functions of the National Archives or purposes ancillary thereto.

30. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgements, decrees, warrants, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements, subsisting immediately before the date of the coming into force of this Part of this Act affecting or relating to any of the properties or undertakings transferred to the National Archives by or under this Act shall have full force and effect against or in favour of the National Archives, and shall be enforceable freely and effectually, as if instead of the Government or governmental authority the National Archives had been named therein or had been a party thereto, and otherwise in substitution of the Government or governmental authority.

Construction of laws, etc.

Part VI

Offences

Unauthorised
removal or
destruction or
damage of public
records.

31. (1) Any person who:

(a) receives or retains any public record knowing that it has been illegally removed in Malta or illegally exported from any other country; or

(b) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest or interfere with, any officer or employee of the National Archives or any police officer in the execution of duties provided for under this Act, or fails to comply with any lawful order by any such officer or employee or police officer as aforesaid, or knowingly furnishes such officers or employees with false information or neglects or refuses to give any information required by or under this Act,

shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of not less than two hundred liri and not exceeding five thousand liri, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment:

Provided that, subject to the above maximum, the minimum fine (*multa*) to which an offender shall become liable under this article shall not be less than the value of any work that might be required to remedy the effects of the offence.

(2) The Court, besides awarding the punishment referred to in this article, may order the convicted offender to remove the causes of the offence and to undo anything which was done without the authorisation required under this Act, within a time sufficient for the purpose and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a further fine (*multa*) of not less than twenty-five liri and not more than fifty liri, as the court may fix, for every day during which the default continues after the expiration of the said time.

(3) Any public record which has been or which may be removed without proper authorisation under this Act, may be reclaimed by the National Archives.

Part VII

Miscellaneous

32. (1) In making available for inspection or providing copies of public records in his custody the National Archivist shall not be in breach of the copyright of such records. Copyright.

(2) The provision of copies of public records by the National Archivist does not imply the transfer of any copyright therein to the recipients.

(3) The publication of facsimile copies of public records in the custody of the National Archivist in which copyright of the Government of Malta subsists is prohibited except with the consent of the National Archivist and subject to such conditions as he may require and to the payment of such fees as may be prescribed under this Act.

33. The Minister may, after consultation with the National Archivist, make regulations to give effect to any of the foregoing provisions of this Act, or to regulate or otherwise provide for any matter relating to public records, and may in particular, but without prejudice to the generality of the foregoing make regulations for any of the following purposes: Power to make regulations.

(a) to provide for the proper management and preservation of public records and the manner in which the public may have access to the documents and objects in the National Archives;

(b) to establish the standards and the manner in which copies and other reproductions of documents and objects in the National Archives, may be made;

(c) to establish the fees and dues which may be payable by or under, or for services rendered pursuant to, the provisions of this Act;

(d) to ensure the better fulfilment of the functions of the National Archives, the National Archivist, and the Council;

(e) to regulate the appointment of officers and employees with the National Archives;

(f) to establish guidelines for best preservation practice;

(g) to provide for any forms or procedures which may be necessary or expedient and for which no express procedure is contained in this Act;

(h) to regulate movement of public records and the periods within which such records shall remain closed to public inspection;

(i) where not otherwise provided in this Act, to prescribe rules regulating the powers and duties of, and the procedures to be followed by the National Archives;

(j) to amend the Schedule annexed to this Act;

(k) to prescribe anything else which may or is to be prescribed under this Act.

Transitional provisions for Records in the National Archives.

34. Records and other materials in the custody of the Curator of the National Archives on the day before the coming into operation of this Act are hereby transferred to the custody of the National Archivist subject to any terms and conditions that were applicable to those records and other materials on that day.

Repeals and amendments. Cap. 339.

35. (1) The National Archives Act, 1990, and any rules and regulations made thereunder are hereby repealed.

(2) All references in other Acts and regulations to the National Archives of Malta or to the Curator of the National Archives shall be construed as applying to the National Archives or to the National Archivist thereof and all references to the National Archives Act, 1990, shall be construed as referring to this Act.

Amendment of the Notarial Profession and Notarial Archives Act, Cap. 55.

36. In subarticle (3) of article 22 of the Notarial Profession and Notarial Archives Act, for the words “in receiving those deeds only to which the Government or any corporate body established by law is a party” there shall be substituted the words “in receiving those deeds only to which the Government, any corporate body established by law, or, as may be authorized by the Minister in each case, any partnership or any other body in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control, is a party”.

Amendment of the Criminal Code, Cap. 9.

37. The Criminal Code shall be amended as follows:

(a) in article 144 thereof:

(i) in subarticle (1) thereof, for the words “to imprisonment for a term from thirteen months to three years” there shall be substituted the words “to a fine (*multa*) of not less than two hundred liri and not more than ten thousand liri or to imprisonment for a term from thirteen months to seven years or to both such fine and imprisonment”;

(ii) immediately after subarticle (2) thereof there shall be inserted the following new subarticle:

“(3) Where the destruction, mutilation, damage, or alteration of any thing referred to in subarticle (1) of article 144 is caused through imprudence, negligence, unskillfulness in an art or profession or through non-observance of any regulation the offender shall be liable to a fine (*multa*) of not more than four thousand liri or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.”;

(b) in article 279 thereof, for the words “seven years.” there shall be substituted the words “seven years:” and immediately thereafter there shall be added the following proviso:

“Provided that where for any reason mentioned in subarticle (2) of article 325 it is not possible to estimate the value of the thing stolen the said value shall be deemed to exceed one thousand liri.”; and

(c) immediately after paragraph (h) of article 271 thereof there shall be inserted the following new paragraph:

“(i) when it is committed on any public record as defined in article 2 of the National Archives Act.”.

FIRST SCHEDULE

(Article 7)

Form of Oath

I, swear/solemnly affirm that I will fully and honestly fulfil my duties as National Archivist/ employee of the National Archives in conformity with the requirements of the National Archives Act, 2005, and of all orders made thereunder, and that I will not, except in the performance of my duties under that Act and such orders and except when information has fallen into the public domain, disclose or make known during my service as National Archivist/employee of the National Archives or at any time thereafter, any matter which comes to my knowledge relating to any person, Government department or other public office by reason of my service as National Archivist/ employee of the National Archives.

(So help me God.)

SECOND SCHEDULE

(Article 8)

List of Public Records

1. Public records and archives to be preserved in any archival repository which falls under the responsibility of the National Archives are those records and archives created, received and maintained by:

- (a) the office of the President
- (b) the House of Representatives
- (c) the office of the Cabinet of Ministers
- (d) any ministry, department, commission, authority, agency or other public office:

Provided that in the case of public corporations or other para-stata or public organizations which are or have been privatised the provisions of this Schedule shall only apply up to the date when the Government of Malta or any body owned or controlled by it no longer has effective control.

- (e) any embassy or other foreign representation of the Government of Malta outside Malta and by any officer serving in such a post
- (f) the Electoral Commission or any committee or officer thereof
- (g) the Courts of Justice, or any other court or tribunal with jurisdiction within Malta or by any judge, magistrate or other officer of such a court
- (h) any local council or authority, or committee or sub-committee or officer thereof
- (i) any predecessor or successor of any of the institutions, bodies or individuals designated in paragraphs (a) to (h) above
- (j) any other body or individual so designated by the Minister by regulation made in accordance with this Act.

2. Records originated by the Ministry for Gozo, Gozo sections of government departments, and by public bodies established for Gozo shall be deposited at the Gozo Section of the National Archives.

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3. All public records and archives which at the time of the coming into force of this Act were in the custody of the National Archives of Malta shall be considered to be public records for the purposes of this Act.

Passed by the House of Representatives at Sitting No. 265 of 10th May, 2005.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives