

Archives Preservation Act, 2046 (1989)

Date of Authentication and Publication

2046.7.11 (October 27, 1989)

Amendment

Republic Strengthening and Some Nepal Laws

Amending Act, 2066¹ (2066-10-7 (21 Jan. 2010))

Act Number 17 of the Year 2046 (1989)

An Act made to provide Archives Preservation

Preamble: Whereas, it is expedient to make legal provisions to preserve the documents systematically and safely of national importance as archives,

Now, therefore, be it enacted by His Majesty King Birendra Bir Bikram Shah Dev with the advice and consent of the *Rastriya Panchayat*.

1. **Short Title and Commencement:**

1.1 This Act may be called the " Archives Preservation Act, 2046 (1989)".

1.2 This Act shall come into force immediately.

2. **Definitions:**

2.1 In this Act, unless the context or subject otherwise requires,-

2.1.1 Documents shall include the following matters:-

2.1.1.1 Hand written Manuscripts, Books, Reports, Financial Statements, Treaty and Agreement, Magazine (News document) and Journal, Letters

¹ This Act came into force on 15 *Jeshta* 2065 (2008), *Prasasti* and the word "kingdom" has been deleted.

and Correspondences, Documents, Drawings (Paintings), Pictures, Maps, Plans, Chart, File, *Misil* (case file), Register or any other publication.

2.1.1.2 Film, Microfilm, Tape (Sound Archiveser), Motion Picture, Computer Disc or Original or a copy of the Computer Cassettes.

2.1.1.3 *Tadpatra, Bhojpatra, Swornapatra* or *Shilapatra*.

2.1.1.4 Postage Stamp with first cancellation mark (*Tancha*) and money order form, a new publication of aerogramme and post card.

2.1.2 "Archives" means the documents preserved (safely kept as Archives) in the National Archives and documents registered pursuant to Sub-section 5.1.1.

2.1.3 "National Archives" means the National Archives constituted pursuant to Section 3.

2.1.4 "Office" means the Ministry and Department of the Government of Nepal and this expression also includes the constitutional bodies and *ad hoc* and Time bound offices of the commissions established by His Majesty and the Government of Nepal from time to time.

2.1.5 "Committee" means the Advisory Committee formed pursuant to Section 4.

2.1.6 "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rule framed under this Act.

3. **Establishment of a National Archive:**

- 3.1 There shall be a National Archive to preserve (keep the Archives) in a systematic and safe manner.
- 3.2 The "National Archive" constituted before the commencement of this Act shall be deemed to have been established under this Act.

4. **Formation of Advisory Committee:**

- 4.1 Government of Nepal may form an Advisory Committee to provide advice to the National Archives of the Government of Nepal for the preservation of Archives systematically and safely.
- 4.2 The functions, duties and powers and other procedures of meetings of the committee shall be as prescribed.

5. **Functions, Duties and Powers of the National Archives:**

- 5.1 The functions, duties and powers of the National Archives shall be as following:-
- 5.1.1 To register the documents received pursuant to Section 6 and 7,
- 5.1.2 To keep the Archives in a systematic and safe manners,
- 5.1.3 To classify the Archives as prescribed and prepare their index,
- 5.1.4 To print or produce duplicate copy of the Archives as per necessity,
- 5.1.5 To arrange for in providing an opportunity to see or copy a Archives to a person,
- 5.1.6 To provide suggestion (consultation) to office in preserving the documents safely,

5.1.7 The other functions, duties and powers of the National Archives shall be as prescribed.

6 **Transfer of documents to the National Archives by the office:**

6.1 An office shall transfer the following documents to the National Archives to preserve them in a safe and protected manner:

6.1.1 Documents of National importance as referred to in Sub-section 2.1.1.1 and 2.1.1.2 which are Twenty Five or more years old,

6.1.2 Copy or picture of *Tadpatra*, *Bhojpatra*, *Swornapatra*, *Tamrapatra* or *Shilapatra*,

6.1.3 Each postage stamp and money order form with first cancellation mark, and new publication of aerogramme or post card.

6.2 The office, if finds it appropriate to be preserved in the National Archives for being it of National importance, may transfer the following documents, with or without mentioning any time frame, to the National Archives to keep them safely,

6.2.1 Reports, Financial Statements, Treaty, Agreement or any other publication,

6.2.2 Manuscripts, Books, Magazines, Journal or Letters/Correspondence, Documents, paintings (drawings) or pictures,

6.2.3 Maps, Plans, Charts, File, *Misil* (case file), Register or Film,

6.2.4 Original or copy of the film, microfilm, tape (sound Archiveser) motion-picture, computer disc or computer cassette,

6.2.5 Other documents except as referred to in Sub-section 6.2.1, 6.2.2 or 6.2.4.

- 6.3 An office, while destroying any government document pursuant to the law relating to destroying of government documents, shall transfer those documents which are so prescribed, to the National Archives.
- 6.4 An office, while transferring documents to the National Archives, shall transfer the index based on the classification.
- 6.5 The office, while transferring documents pursuant to Sub-section 6.1 or 6.2 shall mention that particular documents shall not be shown or allowed to copy, to any person for specific period of time except those who are prescribed, if it is necessary to do so, when transferring to the National Archives for preservation.
- 6.6 In case, an office transfers a document pursuant to Sub-section 6.1 to the National Archives, such office shall not be able to get back those documents.

Provided that, out of the documents which were transferred to the National Archives by fixing any time period regarding to any documents pursuant to Sub-section 6.2, the transferring office may get back those documents, as prescribed, after the expiry of such time so fixed.

- 6.7 If the documents transferred to the National Archives pursuant to Sub-section 6.1, become necessary to the transferring office, the National Archives may make available those documents to such office as prescribed in a condition that those documents shall again be transferred back to the National Archives.

7. **Documents may be transferred to the National Archives:**

7.1 A person holding any historical, religious, cultural, literary, economic or any document with national importance may transfer to the National Archives to preserve safely as the National property (asset).

7.2 The person transferring documents to the National Archives pursuant to Sub-section 7.1, shall not be able to get back those documents from the National Archives.

8. **Documents to be preserved systematically and safely:**

8.1 All the offices shall preserve the documents, which are laying in the office, systematically and safely.

8.2 An office may receive necessary consultation, in preserving documents systematically and safely pursuant to Sub-section 8.1 from National Archives.

9. **Prohibited Archives:**

9.1 The following Archives shall be deemed to be the prohibited Archives:-

9.1.1 Those Archives which are transferred by the offices to the National Archives, to preserve safely with or without fixing any time limit to see or copy the document by a person except a person so prescribed,

9.1.2 Those Archives which are restricted to see or copy on the ground that they deserve national importance by the persons so prescribed with or without fixing any time limit for it.

10. **Archives may be seen or copy may be given:**

10.1 In case anybody wants to see the Archives, other than the prohibited ones, the National Archives may grant permission to see those Archives as prescribed.

10.2 In case, anybody wants to receive a copy of the Archives, other than the prohibited ones, the National Archives may grant permission to copy those Archives as prescribed upon charging the fees for the same as prescribed.

10.3 Notwithstanding anything contained in Sub-section 10.2, it may be permitted to copy the Archives without charging any fees in the conditions so prescribed.

11. **Archives shall not be altered:**

11.1 The personnel, who have the responsibility of preserving these Archives safely, shall not cross out, alter, torn or destroy in any manner.

11.2 A person who wants to see or copy the Archives or any other person shall not cross out, alter, torn or destroy in any manner.

12. **Penalties:**

12.1 In case, an employee of the National Archives who has a duty to preserve the Archives safely, provides any opportunity to see or copy any Archives to any person, prohibited pursuant to Section, 9, except the person who is so prescribed, such employee shall be punished with a fine of up to Five Thousand Rupees or up to Three years of imprisonment or with both.

12.2 In case, an employee of the National Archives who has a duty to preserve the Archives safely makes cross out, alter, tears or destroy

any Archives upon violating the provision of Sub-section 11.2, such employee shall be punished with a fine up to Five Thousand Rupees or up to Three years of imprisonment or with both.

12.3 In case, a person, other than an employee of the National Archives who has a duty to keep the Archives safely makes cross out, change, alters, tears or destroys any Archives upon violating the provision of Sub-section 11.2, such person shall be punished with a fine up to Five Thousand Rupees or up to Three years of imprisonment or the both.

12.4 Except otherwise referred to in Sub-sections 12.1, 12.2 or 12.3, in case, any other person commits an act upon violating the provisions of this Act or Rules framed thereunder, such person shall be fined up to Five Thousand Rupees.

13. **Action may be taken pursuant to the other prevailing laws:**

In case, a person who commits an act which is considered to be an offence under this Act and such act is also considered to be an offence under any other prevailing law, it shall not be deemed to bar to take legal action against such person pursuant to the other prevailing law.

14. **Government to be the Plaintiff:**

Government of Nepal shall be the plaintiff in the cases under this Act.

15. **Power to frame Rule:**

Government of Nepal may frame necessary Rules to carry out the objectives of this Act.