

# Public Archives Act

2014 No 77, 28 May

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## Entry into force 12 June 2014

Any reference in this Act to “the Minister” or “the Ministry” not accompanied by express mention of or reference to a specific field of responsibility shall be understood as being a reference to the **Minister of Education, Science and Culture** or to the **Ministry of Education, Science and Culture** as responsible for the implementation of this Act.

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## Section I General provisions

### ■ Article 1 *Objective*

The objective of this Act is to safeguard the creation, conservation and safe handling of public records with a view to protecting the rights of the citizens and the interests of the administration, and ensuring the preservation of the Icelandic people’s history.

### ■ Article 2 *Definitions*

For the purposes of this Act, and any Regulation issued pursuant to it, the following definitions shall apply:

1. *Public archives* means the National Archives of Iceland and any regional archives operating in accordance with an operating authorisation.

2. *Record* means any type of recorded information, written or otherwise, which has been created, received or maintained through the activities of an organisation or individual.

3. *Records management* means the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including the processes and compliance with rules for capturing and maintaining evidence of and information about business activities and transactions in the form of records.

4. *Archiving* means any aspect of the creation and preservation of and access to records and other information in a particular archive, whether held by an entity subject to an obligation of transfer or by a public archive.

### ■ Article 3 *Role of the National Archives of Iceland*

The role of the National Archives of Iceland is to implement public policy on archiving and records management. In addition, it serves a role as a public archive.

## Section II Administration

### ■ Article 4 *Management of public policy on archiving and records management*

The Minister shall assume responsibility for the general administration of public policy on archiving and records management pursuant to this Act. The National Archives of Iceland shall be responsible for the implementation of that policy.

### ■ Article 5 *National Archives of Iceland*

The National Archives of Iceland shall operate as a separate government entity under the authority of the Minister.

The running costs of the National Archives shall be borne by the Treasury as further stipulated in the annual Budget Act.

■ **Article 6** *National Archivist*

The Minister shall appoint the director of the National Archives of Iceland, the National Archivist, for a five-year term. The National Archivist must have completed a degree from a higher education institution, and must possess sound knowledge of the National Archives' field of activity.

The National Archivist shall administer the activities and financial operations of the National Archives of Iceland. The National Archivist shall hire the personnel of the National Archives and act as its representative.

■ **Article 7** *Advisory Board*

The Minister shall appoint six members to the Advisory Board of the National Archives of Iceland for a four-year term. One member shall be nominated by the Institute of History at the University of Iceland; two by the Association of Local Authorities in Iceland, one of which must belong to the staff of a regional archive; one by the permanent staff of the National Archives; one by the School of Social Sciences of the University of Iceland; and one member shall be appointed without nomination. Alternate members shall be appointed in the same manner. The same person may not be appointed as a principal member of the Advisory Board for more than two consecutive terms.

The Chair and the Vice Chair of the Advisory Board shall be appointed by the Minister from among the Board's members.

The National Archives' Advisory Board shall advise its director—the National Archivist—on policy and other issues related to its operation. The Advisory Board shall submit comments to the National Archivist on the National Archives' annual operating plan and budget and on its organisation.

The National Archivist shall attend the meetings of the Advisory Board with the right to speak and propose motions.

■ **Article 8** *Implementation of public policy on archiving and records management*

The role of the National Archives of Iceland in the implementation of public policy on archiving and records management includes the following tasks:

1. Laying down rules and issuing guidance on the arrangements to be used for records management and archiving by administrative entities of central and local government, as well as by other entities subject to an obligation of transfer and referred to in Article 14, first and second paragraphs; such rules shall be submitted to the Minister for approval;

2. Laying down rules on the preparation and transfer of records and data archives from entities subject to an obligation of transfer to public archives; such rules shall be submitted to the Minister for approval;

3. Laying down rules on the preservation and disposal of records; such rules shall be submitted to the Minister for approval;

4. Submitting proposals to the Minister to issue authorisations to municipal councils or inter-municipal cooperative societies to set up regional archives having the responsibilities of a public archive as described in Article 13, and granting authorisations to operate such regional archives subject to the Minister's approval; regional archives shall be active within the boundaries of the municipality or municipalities operating the regional archive in question according to its founding documents;

5. Supervising the operations of regional archives in accordance with the provisions of Articles 9 to 12.

■ **Article 9** *Regional archives*

Regional archives are public archives which operate independently under the expert supervision of the National Archives of Iceland. The municipality or municipalities having set

up a regional archive shall be responsible for its operation. Regional archives shall receive funding from the Treasury as further stipulated in the annual Budget Act.

Loans of records to a municipality shall be governed by Article 19.

Each regional archive shall supervise the archiving activities of entities subject to an obligation of transfer of their records and other materials to that archive, see further Article 8, point 4, Article 13, point 4, and Article 14, first paragraph, point 4.

The Minister shall issue a Regulation containing more detailed provisions with regard to regional archives.

■ **Article 10** *Competence to operate a regional archive and withdrawal of an operating authorisation*

A regional archive may only be operated by municipal councils and inter-municipal cooperative societies which have received an authorisation to operate such archives.

Where a regional archive is no longer properly maintained, or where the professional basis for granting an operating authorisation for the archive no longer exists, the National Archives of Iceland shall alert the relevant municipal council or inter-municipal cooperative society to the shortcomings identified, and request that appropriate remedies be implemented by a specified deadline. If repeated warnings are not heeded, the National Archives shall withdraw the operating authorisation of the regional archive concerned and order the transfer of its holdings to the National Archives of Iceland at the expense of the relevant municipality or inter-municipal cooperative society.

Where an inter-municipal cooperative society ceases the operation of a regional archive, its holdings shall be transferred to the National Archives of Iceland at the expense of the municipalities which funded it, in accordance with the latest applicable division of costs related to the operation of the inter-municipal cooperative society.

■ **Article 11** *Authorisation to operate a regional archive*

Municipal councils may apply to the National Archives of Iceland for an authorisation to operate a regional archive for the purpose of preserving municipal records and carrying out the tasks referred to in Article 13 on the role of public archives. Municipalities may set up inter-municipal cooperation societies for the operation of regional archives in accordance with Section IX of the Local Government Act. In addition to an application as referred to in the second paragraph below, applications for such authorisations shall be accompanied by a copy of the statutes of the inter-municipal cooperation society.

Applications for an authorisation to operate a regional archive shall include projections for the running costs, and for the premises, equipment and personnel required to operate the archive. Subject to the Minister's approval, the National Archives of Iceland shall issue authorisations to operate regional archives where it is clear from the application that financial and professional operating conditions are in place. Each authorisation shall indicate the professional basis for granting it.

The Minister shall issue a Regulation containing more detailed provisions regarding authorisations to operate regional archives.

■ **Article 12** *Supervision by the National Archives of the operation of regional archives*

The National Archives of Iceland shall monitor the compliance of regional archives with applicable provisions of law and with the conditions of their operating authorisations.

The operators of regional archives shall submit annual reports on their activities to the National Archives and provide it with any other information or written clarifications requested by it and which are necessary for its monitoring of compliance with the conditions of the operating authorisation. Statutory confidentiality provisions shall not prevent such information from being provided.

Regional archives must grant access to their premises for the purposes of monitoring by the National Archives of Iceland. The personnel of regional archives must provide the National Archives, at its request, with any assistance required in that context.

### **Section III Tasks and role of public archives**

#### **■ Article 13** *Role of public archives*

The role of public archives includes the following tasks:

1. Receiving and acquiring records, and preserving records and other materials received from entities subject to an obligation of transfer and containing information of importance for administrative purposes or for the interests and rights of the citizens, or of historical significance;

2. Making available records and other materials from the archive's holdings, as well as indices and information on those records, to those wanting to use the archive, and providing the necessary working environment, including for scientific research and academic work;

3. Providing guidance on the use of records held by the archive, and facilitating research into those documents to the extent possible;

4. Monitoring the implementation of this Act, of any Regulation issued by the Minister on the basis thereof, or of rules laid down pursuant to Article 8, by entities subject to an obligation of transfer; such entities must grant access to their premises for the purposes of inspections carried out as part of the monitoring of public archives;

5. Taking the initiative for research related to archival holdings as referred to in point 1, within budget restraints as applicable at each particular time;

6. Seeking to obtain information from other sources than the entities subject to an obligation of transfer in order to ensure the preservation of sources of information concerning the nation's history.

#### **■ Article 14** *Entities subject to an obligation of transfer*

An obligation of transfer pursuant to this Act shall apply to:

1. the Office of the President of Iceland;

2. the Supreme Court of Iceland, regional courts and other lawfully established courts;

3. the Government Offices of Iceland, including every administrative committee and institution constitutionally subordinate thereto, as well as the Church of Iceland;

4. municipalities as well as every institution and committee carrying out administrative duties on their behalf; the same shall apply to inter-municipal cooperation societies and any other entity responsible for the implementation of individual administrative tasks in relation to inter-municipal cooperation;

5. funds and foundations established by law or on the basis of an authorisation provided by law for the purpose of carrying out principally official tasks;

6. such administrative civil law entities as have been mandated by law to make administrative decisions on behalf of central or local government in regard to records created by those entities or received by them in connection with cases related to such decisions;

7. such civil law entities as have signed contracts to perform operating tasks pursuant to either Article 30 of the Government Financial Reporting Act or Articles 100 and 101 of the Local Government Act in regard to records created by those entities or received by them in the performance of such tasks.

An obligation of transfer shall also apply to any legal entity in which a stake of at least 51 per cent is in public ownership. The beneficiary of the obligation of transfer shall be a regional archive in cases where the entities in question are owned by municipalities which operate or are partners in a regional archive. Any dispute concerning the obligation of transfer incumbent upon legal entities shall be settled by the National Archives of Iceland.

This Act shall not apply to the Althing or to the Parliamentary Ombudsman.

All parties referred to in the first or second paragraph above shall be obliged to transfer their records to a public archive in accordance with the provisions of this Act. Entities subject to an obligation of transfer which are under central government authority may only transfer their records to the National Archives of Iceland. Entities subject to an obligation of transfer which are under local government authority shall transfer their records to the National Archives of Iceland where the relevant municipality does not operate its own regional archive or does not participate in the operation of such an archive. Municipalities which transfer their records to the National Archives of Iceland for preservation shall pay a storage fee in accordance with a tariff issued by the Minister.

Furthermore, the registers of registered religious organisations which are dissolved, or which cease to operate as registered religious organisations for other reasons, must be transferred to the National Archives of Iceland. In addition, trustees in bankruptcy and testamentary executors must transfer to the National Archives of Iceland any record which has not been presented in court or submitted to the office of a District Commissioner by the end of a public settlement procedure, but which may be of significance for that procedure.

Any person who is in possession of records having their origin in the archive of a public authority or legal entity referred to in the first, second or fifth paragraph above, without being legally entitled to those documents, must transfer them to a public archive in accordance with the division of tasks between public archives laid down in the fourth paragraph.

The right of a public archive to receive records covered by an obligation of transfer shall not expire by reason of negligence or habit.

■ **Article 15** *On the transfer of records covered by an obligation of transfer, and the right to information*

Records covered by an obligation of transfer must be transferred to a public archive when they have reached an age of 30 years. However, electronic records and other materials in electronic form shall, as a general rule, be transferred no later than when they are five years old. In both cases, the date of reference shall be that of the last entry made or the last correspondence registered in a closed case. As regards indices, the deadline shall be counted from the end of the year in which the last entry was made in the relevant index. Entities subject to an obligation of transfer shall retain responsibility for handling and granting access to information from electronic records until the records are 30 years old.

The director of a public archive may, in individual cases, extend or reduce the deadline for the transfer of records pursuant to the first paragraph where this is called for by special circumstances.

The National Archives of Iceland shall in its rules and specifications lay down more detailed provisions for the transfer of records covered by an obligation of transfer, as well as for different deadlines for the transfer of certain categories of records than those stipulated in the first paragraph above, where this is called for by particularly compelling circumstances.

Where the deadline to transfer records is extended, the relevant public authority shall decide on the access to be granted to the records in question on the basis of Sections V to VII, while they are still in its possession. Where the deadline to transfer records is reduced, the director of the relevant public archive shall decide on the access to be granted to the records in question on the basis of the rules that will apply to the right of access to the records after they have been transferred.

Where an entity subject to an obligation of transfer and referred to in the first or second paragraph of Article 14 suspends or dissolves its operations, such of its records as are covered by an obligation of transfer shall be transferred to a public archive as soon as the operations are terminated. Where appropriate, the public archive receiving the records shall decide which of those records are to be transferred to the entity taking over the tasks of the relevant entity. Compensation may be claimed for costs incurred in receiving, preparing and transporting the

records of an entity subject to an obligation of transfer which suspends its operations or is dissolved.

Access to records which have reached an age of 30 years shall be governed by the provisions of this Act irrespective of the point at which they were transferred to a public archive.

The right of access to records pursuant to this Act shall not affect copyright protection where the documents in question enjoy such protection under the Copyright Act.

Where records are transferred to a public archive before they are 30 years old, the archive may charge a storage fee for such records until they have reached that age.

Bankruptcy estates must pay a fee to the National Archives of Iceland for the preservation of bankruptcy documents during a period of seven years and for their subsequent destruction, depending on their nature and quantity; the fee shall count toward the costs of the bankruptcy proceedings under the Act on Bankruptcy, etc.

The Minister shall issue a Regulation stipulating the fees to be charged pursuant to the fifth, eighth and ninth paragraphs on a proposal elaborated by public archives and based on the costs incurred by the archives in preserving the records, considering their nature and quantity.

#### ■ **Article 16** *Private archives*

Public archives may accept the transfer, for purposes of preservation and ownership, of records not emanating from entities subject to an obligation of transfer, provided that they are considered of importance for the archive in question in the performance of its role as referred to in Article 13. However, a public archive may, in special circumstances, accept the transfer of such records on the condition that they should not be made publicly accessible for a specified length of time; that period of time may not exceed 80 years and may be decided differently as regards the access of the general public on the one hand and that of researchers within the meaning of Article 37, eighth paragraph, on the other. In other respects, access to such document archives shall be governed by the provisions of this Act, as appropriate.

Where the property of a person reverts to the Treasury pursuant to Article 55 of the Inheritance Act, any records having belonged to that person shall be transferred to the National Archives of Iceland. The National Archivist may delegate to a regional archive the task of preserving records received by the National Archives pursuant to this provision.

A person who is in the possession of a private archive to which no one can claim ownership must transfer the archive to the National Archives of Iceland. The National Archivist may delegate to another archive the task of preserving records received by the National Archives pursuant to this provision.

The National Archivist shall take the initiative for the conclusion of an agreement between public archives and other entities concerned by this matter on the best approach for preserving private archives in the public sphere.

#### ■ **Article 17** *Reproductions of important records in private ownership*

The provisions of the Cultural Heritage Act concerning the movement of cultural objects from Iceland and of the Act on the return of cultural objects to other countries shall apply to the movement from Iceland of any document archive more than 50 years old.

Prior to the movement from Iceland of a privately-owned archive with cultural or historical significance, the National Archives of Iceland must be given the opportunity to reproduce the documents.

#### ■ **Article 18** *Preservation of important records*

Public archives shall ensure that records for which they are responsible, irrespective of their form, are preserved securely. The most important records kept by each archive must exist on film, as electronic copies, or on other storage media, and all such reproductions must be stored at a secure location away from the institution's main premises.

■ **Article 19** *Lending of records*

Entities subject to an obligation of transfer shall be entitled to the loan, or the obtention of a copy, of any record which they have transferred to a public archive whenever they need access to such records in the exercise of their duties.

Public archives may lend records for use in other public archives, in the Manuscript Department of the National and University Library of Iceland, or in other libraries, archives or research institutions, provided that they have the necessary facilities for the secure storage of records. Such loans can be made subject to conditions with regard to adequate safety precautions to be taken to guarantee the preservation of the records.

Lending of records other than as referred to in the first and second paragraphs is normally prohibited.

Any person who receives a record on loan is responsible for its preservation and prompt return.

■ **Article 20** *General dissemination of information about the nation's history*

Public archives shall work toward making important records accessible to the public, for example on their websites or in other ways, and provide information about the history of the Icelandic nation or of individual regions on the basis of records in its holdings.

■ **Article 21** *Duty of employees to maintain confidentiality*

Employees of public archives must observe strict confidentiality with regard to any information relating to the financial or private affairs of individual persons, the professional, manufacturing or business secrets of natural and legal persons, and matters of important public interest, to which the general public may not be granted access, as well as to information to which access is denied pursuant to Article 29. Where access is granted to records exempted from the right to information established in Section V, the duty to maintain confidentiality as laid down in Article 33 shall extend to the employees of public archives. The duty to maintain confidentiality shall continue to apply after the termination of employment.

**Section IV Records management and archiving activities of entities subject to an obligation of transfer**

■ **Article 22** *Responsibility for the records management and archiving activities of entities subject to an obligation of transfer*

The provisions of this Section shall apply to entities subject to an obligation of transfer pursuant to Article 14, first and second paragraphs.

The director of an entity subject to an obligation of transfer is responsible for the records management and archiving activities of the entity, including for ensuring compliance with the relevant legislative and regulatory provisions. The same shall apply to the Chairs of Administrative Boards and to municipal administrators, as well as to the directors of funds, foundations and other entities falling under this Act pursuant to Article 14.

Entities subject to an obligation of transfer must use arrangements for records management and archiving which are consistent with the rules laid down on the basis of Article 23, and must preserve case files in a manner that allows them to be accessed in accordance with those rules.

The person responsible for records management and archiving shall implement appropriate measures to protect the records of entities subject to an obligation of transfer against unlawful destruction, modification and unauthorised access.

When records are transferred to a public archive, the responsibility for preserving the records is taken over by that archive.

■ **Article 23** *Records management and archiving*

The National Archives of Iceland shall lay down rules as referred to in Article 8, Point 1, on the arrangements to be used for records management and archiving by administrative entities of central and local government, and by entities subject to an obligation of transfer, as well as on the cataloguing, classification and preparation of records to be transferred to public archives, including the requirements as regards standards for document filing systems and the approval of such systems.

Entities subject to an obligation of transfer pursuant to Article 14 must systematically register cases received for processing, and preserve case files in a manner that allows them to be accessed in accordance with rules laid down pursuant to the first paragraph.

■ **Article 24** *Duty of preservation and disposal rules*

No record belonging to the archives of entities referred to in Article 14, first or second paragraphs may be destroyed or disposed of except on the basis of a decision by the National Archivist, rules laid down pursuant to either Article 23 or the second paragraph of this Article, or a special provision of law.

The National Archives of Iceland shall, as far as feasible, lay down special rules in accordance with Article 8, Point 3, on the disposal of records by entities subject to an obligation of transfer.

**Section V Access by the general public to records held by public archives**

■ **Article 25** *Public's right to information*

Where a request to this effect is submitted, public archives must grant public access to records as soon as 30 years have elapsed since their date of creation, provided that the relevant record is not subject to restrictions as provided in this Act. In this respect, the date of reference shall be that of the last entry made or the last correspondence registered in a closed case. The date of creation of the record may also be used as the date of reference in cases where the handling of the case by a public authority has been delayed, or where this is called for by compelling reasons.

Where restrictions provided for in this Act only apply to part of a record, access shall be granted to any other content of the record provided that excepted information can be separated from information to which access may be granted.

■ **Article 26** *Information on the financial or private affairs of individual persons*

Public access may not be granted to material concerning individuals' financial or private affairs which should reasonably and appropriately be kept confidential, except with the consent of the person concerned.

Where a request to this effect is submitted, public archives must grant public access to records as soon as 80 years have elapsed since their date of creation, even when they contain information about the financial or private affairs of individual persons, including personal information deemed sensitive within the meaning of Article 2, Point 8, of the Data Protection Act, as well as information concerning the protection of witnesses, victims and other persons contained in records from the police, prosecutors, courts or public authorities having the power to impose administrative sanctions.

Notwithstanding the second paragraph, access may not be granted to health records or other records containing health information about named persons until 100 years after the date of the last entry in the record.

Notwithstanding the second paragraph, access may be granted to general censuses, parish records and parish censuses as soon as 50 years have elapsed from the date of entry of the information.

■ **Article 27** *Information about professional, manufacturing or business secrets*

Access may not be granted to records containing information relating to the active and important interests of an individual or a company as regards professional, manufacturing or business secrets.

■ **Article 28** *Information concerning important public interests*

On the transfer of records, and after having consulted with the transferor concerned, the relevant public archive may decide not to grant access to a record until up to 40 years after the date of creation where this is considered necessary in order to protect active public interests, provided that the document contains information about:

1. national security or defence issues;
2. relations with other States or international organisations;
3. correspondence with experts for use in a court case or when assessing whether to file such a case;
4. economically significant State interests;
5. the economic affairs of publicly-owned institutions or companies insofar as they are engaged in competition in the market;
6. environmental matters, where the disclosure of the record is liable to seriously affect the protection of those parts of the environment to which the information relates, such as the habitats of rare species of organisms or the location of rare minerals, fossils or rock formations.

Access to records falling under the first paragraph, Point 6, shall be granted when there is no longer reason to believe that disseminating the information could lead to environmental damage.

■ **Article 29** *Special circumstances*

Public archives may decide to deny access to records less than 110 years old when special circumstances so require, such as when the record contains information about the private affairs of an individual who is still alive, or when public interests are at stake.

**Section VI Access by the recorded person to records held by public archives**

■ **Article 30** *Recorded person's right to information*

When requested, public archives must grant a person access to records concerning that person as soon as 30 years have elapsed since their date of creation, provided that the relevant record is not subject to restrictions as provided in Articles 27 or 28.

Persons may be denied access to records referred to in the first paragraph if they also contain information concerning the private affairs of other persons, provided that the interests calling for maintenance of secrecy regarding the information are considered more important than the interests of the person requesting access to the records.

Where the provisions of Article 27 and of the second paragraph of this Article only apply to part of a record, access shall be granted to any other content of the record, provided that excepted information can be separated from information to which access may be granted.

Notwithstanding the first paragraph, the right of patients to access their clinical records shall be governed by the provisions of Article 14 of the Health Records Act. Public archives shall be responsible for granting access to clinical records in their holdings.

## **Section VII Access to records exempted from the right to information established in Sections V and VI**

### **■ Article 31** *Decisions on access to records exempted from the right to information established in Sections V and VI*

Access may be requested to records exempted from the right to information established in Sections V and VI where such access is necessary for the purpose of conducting scientific research, safeguarding rights, or for other similar reasons.

An application to gain access shall detail the purpose for which access to the record is requested.

Public archives may grant access to records where it can be presumed that an application to gain access can be granted without infringing on the public and private interests which the provisions of Sections V and VI are intended to protect. Replies to requests for such access must be made in writing.

### **■ Article 32** *Access to records subject to the obtention of approval or the fulfilment of conditions*

Prior to granting access to a record pursuant to Article 31, the approval of the Data Protection Authority shall be sought if the record was transferred by an entity subject to an obligation of transfer and contains personally identifiable information, and if the processing of the information was governed by the Data Protection Act.

The Data Protection Authority may impose conditions for granting its approval. Public archives may also impose conditions for granting access to records and other materials pursuant to this Article. Such conditions shall be based on considerations relating to:

1. the nature of the information to which access is granted;
2. the purpose behind an application submitted pursuant to Article 31.

Entities subject to an obligation of transfer or the Data Protection Authority may impose as a condition that:

1. information about private matters, including financial ones, not be disseminated to third parties;

2. no contact be made with individuals referred to in the record to which access is granted or with their family members;

3. the content of the record not be disclosed in its entirety;

4. no copies be made of the record;

5. the information to which access is granted not be included in research conclusions in a personally identifiable way.

Other conditions than those specified in the third paragraph may be imposed when special circumstances so require.

The Data Protection Authority shall ordinarily dispose of 30 days to reply to public archives as to whether it gives its approval for granting access to a particular record. Where the Authority fails to reply to the public archive within 30 days, the archive shall be informed of the reasons for the delay and of the likely date of decision.

On a proposal by the Data Protection Authority, the Minister may lay down rules on the conditions of use of certain types of record covered by this Section and containing personal information falling under the Data Protection Act. This removes the need to seek the approval of the Data Protection Authority as regards records covered by such rules.

### **■ Article 33** *Confidentiality*

Persons who are granted access to records falling under the provisions of this Section may not disclose, transfer or make use of any information to which access is gained in that manner, except as stipulated in the authorisation issued by the public archive.

## **Section VIII National Security Archive and access thereto**

### **■ Article 34** *National Security Archive*

The National Archives of Iceland shall operate a specialised archive, the National Security Archive, for the preservation of all records and written sources previously held by entities subject to an obligation of transfer and relating to Iceland's security, both internal and external, in the period between 1945 and 1991.

Notwithstanding the provisions of Article 15, first paragraph, entities subject to an obligation of transfer must transfer to the National Archives of Iceland all records and written sources in their holdings which relate to Iceland's security, both internal and external, in the period between 1945 and 1991.

A separate index shall be created of all case files and related records belonging to this section of the National Archives.

### **■ Article 35** *Public access to the National Security Archive*

When requested, the National Archives of Iceland must grant public access to records contained in the National Security Archive, provided that they do not contain information covered by the provisions of Article 37, third or fourth paragraphs.

Where the provisions of Article 37, third or fourth paragraphs, only apply to a limited section of a record, that information shall be redacted and public access shall be granted to other content of the record.

### **■ Article 36** *Access by the recorded person to the National Security Archive*

When requested, the National Archives of Iceland must grant a person access to records held in the National Security Archive and containing personally identifiable information about that person.

Where a record also contains personally identifiable information about other individuals covered by Article 37, third or fourth paragraphs, that information must be redacted from the photocopy or reproduction of the record before granting access to it, unless the person concerned has consented to the public disclosure of the information as referred to in Article 37, fifth paragraph.

Where information referred to in the first paragraph relates to an individual who is deceased, that person's spouse, children and grandchildren over 18 years of age may request access to information concerning the person within the meaning of the first paragraph. The same shall apply to the siblings of a deceased individual who has no living spouse, children or grandchildren.

### **■ Article 37** *Access by researchers to the National Security Archive*

All records held in the National Security Archive, as well as the index referred to in Article 34, third paragraph, shall be made accessible to researchers in the premises of the National Archives of Iceland, subject to the conditions stipulated in this Article.

Persons who are granted access to records held in the National Security Archive must in advance sign a declaration whereby they promise to respect the duty to maintain confidentiality stipulated in the third and fourth paragraphs, as well as other provisions contained in this Article.

Researchers shall be prohibited from disclosing or otherwise disseminating personally identifiable information about living persons who have been considered a potential danger to national security according to records contained in the Archive, except with the consent of the person concerned.

Disclosing or otherwise disseminating personally identifiable information about the sensitive private affairs of individuals which should reasonably and appropriately be kept confidential, and which is contained in records in the National Security Archive, shall be prohibited except with the consent of the person concerned. This prohibition shall cease to apply 80 years after the date of creation of the material in question.

As the registration of case files in the the National Security Archive advances, the National Archives of Iceland shall inform concerned persons who are still alive, or a close relative of a deceased person as referred to in Article 36, by letter in those cases where information about persons falling under the third or fourth paragraphs is discovered in the material of the National Security Archive, and inquire whether they are willing to consent to the public disclosure of information relating to them. The letter shall be accompanied by general guidance on the legal consequences of providing such consent.

Consent provided pursuant to the third, fourth or fifth paragraphs must be witnessed by a notary public or by two legally competent witnesses. Clear mention must be made of the consenting person having written his or her signature, or recognised the signature as his or hers, in the presence of the person(s) confirming the signature as witnesses, as well as of the person's legal competence at the moment of signing the consent.

Researchers may not remove from the National Archives' premises any photocopy, photograph or digital reproduction of records containing information covered by the third or fourth paragraphs unless the person concerned has consented to the public disclosure of the information as referred to in the fifth paragraph, or given consent specifically for the authorisation to deliver a photocopy of the record to the researcher; any such consent shall be forwarded to the National Archives of Iceland.

For the purposes of this Article, 'researchers' shall be understood as persons who have pursued academic research in the fields of the humanities or the social sciences and published their research in recognised fora. Researchers must demonstrate that materials held in the National Security Archive are of considerable importance for a study which is underway.

Personally identifiable information as referred to in the third and fourth paragraphs shall be defined as information which can be linked, directly or indirectly, to a particular individual, whether deceased or living.

■ **Article 38** *Transfer of materials to the National Security Archive by the Ministry for Foreign Affairs*

Prior to transfer to the National Security Archive, any materials held by the Ministry for Foreign Affairs and falling under Article 34 must be examined and registered for transfer in accordance with the instructions of the National Archives of Iceland.

Records which the Icelandic government is under an obligation to maintain secret by virtue of its international agreement with the North Atlantic Treaty Organization may not be transferred to the National Security Archive.

Records containing information about active defence and security interests of the Icelandic state may not be transferred to the National Security Archive where:

1. they are less than 30 years old; or
2. special legal provisions relating to confidentiality limit the right of access of the public to the records.

**Section IX Records emanating from parliamentary investigation commissions and other projects instigated by the Althing**

■ **Article 39** *Records emanating from parliamentary investigation commissions and other projects instigated by the Althing*

The National Archives of Iceland shall preserve records and databases which have been created in connection with the work of parliamentary investigation commissions and with other projects instigated by the Althing through legislation.

Access to such records and databases shall be governed by the provisions of specially applicable legislation, the Information Act, or this Act, as appropriate.

## **Section X Procedure, administrative complaints, and responsibility**

### **■ Article 40** *Request for access to records*

Those requesting access to records on the basis of Sections V to IX shall identify the records or the information to which access is requested on a form provided by the relevant public archive. Requests for access to records shall concern records held by the relevant archive, which shall be under no obligation to obtain records from other parties in order to provide access to them.

The processing by a public archive of requests submitted pursuant to Sections V and VI shall, where appropriate, be governed by the provisions of Section IV of the Information Act. Public archives may dismiss requests for access to records where lack of clarity in the identification of the record or information to which access is requested makes it impossible to comply with the request without undue effort. Prior to this, the party concerned shall be informed and given the opportunity to further specify the request.

### **■ Article 41** *Consultation*

Prior to deciding on the granting of access to records, a public archive may invite the entity subject to an obligation of transfer which transferred the record, or the person concerned by the information, to indicate whether the content of the information relates to sensitive interests which are to remain confidential pursuant to this Act. A delay of seven working days shall be given in which to respond to such invitations.

### **■ Article 42** *Case processing times and procedure*

The decisions of a public archive on whether to grant requests for access to records shall be made as quickly as possible.

Where the archive fails to process a request within 25 working days of its receipt, the requesting party shall be informed of the reasons for the delay and of the likely date of decision. Where the request for access to records is based on the provisions of Section VI or Section VII, the above deadline shall be 30 working days, extended by the time expected to be required, as laid down by law, to obtain comments or approval, as appropriate.

In other respects, the procedural rules of the Administrative Procedures Act shall apply.

### **■ Article 43** *Guidance with respect to copyright*

When processing a request for access to records protected by copyright, the name of the rightholder shall be provided where that information is available.

### **■ Article 44** *Photocopies or reproductions of records, etc.*

Public archives shall grant access to records in the form or format in which the documents are preserved, unless they have already been made publicly accessible. Where information is preserved electronically the requesting party may, where practicable, choose between accessing it in that form or as a printout on paper. When granting access, appropriate safety precautions adapted to the nature of the materials shall be implemented.

Where the number of records is large, public archives may decide to outsource the task of photocopying or reproducing the records. In such cases, the party requesting access to the records in question shall be liable for photocopying and reproduction costs.

Where access is requested to the records of a bankruptcy estate, or to other uncatalogued or uncategorised records, public archives may charge fees for the work and expenses that this entails.

The National Archives of Iceland may charge fees for the photocopying and reproduction of materials to which access is granted pursuant to this Act. Such fees shall be fixed by a tariff which is to be approved by the Minister and published in the B Section of the Law Gazette. The tariff must also be made easily accessible to those using the services of the National Archives.

Regional archives may charge fees for the photocopying and reproduction of materials provided pursuant to this Act. Such fees shall be decided by the archive's board as part of a

tariff which must be made easily accessible to the users. Where no board has been appointed for the archive, the relevant Municipal Council shall decide on the fees to be charged.

The fees in question shall not exceed the actual cost incurred by the archive concerned in providing the services, their purpose being to recoup the following cost elements:

- a. The salaries of the staff involved in providing the services;
- b. The cost of materials specifically linked to the services;
- c. The normal depreciation of any equipment used to reproduce materials.

Where the cost of reproducing or photocopying materials is foreseeably higher than ISK 10,000, an advance payment may be required.

■ **Article 45** *Reasoning for and notification of decisions to deny access*

Decisions by public archives to deny requests for access to records, in part or in whole, must include a justification and must be notified in writing. The same shall apply for denials of requests for photocopies or reproductions of specified records.

■ **Article 46** *Right of complaint*

The following may be appealed to the Information Committee:

1. Denials of requests for access to records pursuant to this Act;
2. Denials of requests for photocopies of records or reproductions of other materials;
3. Decisions to limit access to a particular record for a period of up to 40 years on the basis of Article 28, first paragraph, in cases where the refusal of a public archive to grant access to the record is based on such a decision.

The procedure for complaints filed pursuant to the first paragraph is governed by the provisions of Chapter V of the Information Act.

The procedure for decisions made by the National Archives of Iceland pursuant to Article 10, second and third paragraphs, is governed by the provisions of the Administrative Procedures Act.

Decisions by the National Archives of Iceland regarding the obligation of a legal entity to transfer documents to a public archive are subject to appeal to the Minister.

Refusals by the National Archives of Iceland based on Article 37, eighth paragraph, are subject to appeal to the Minister.

Decisions other than those referred to above and made pursuant to this Act are not subject to appeal to the Minister.

## **Section XI Sanctions and regulatory powers**

■ **Article 47** *Sanctions and compensations*

A person shall be subject to a fine, or to imprisonment for up to three years, for:

- a. non-observance of an obligation of transfer pursuant to Article 14, fourth paragraph;
- b. while being responsible for records management and archiving pursuant to Article 22, using arrangements for the registration of case files or for the classification or preparation of documents that are in non-compliance with rules laid down pursuant to Article 23;
- c. not taking measures pursuant to Article 22, fourth paragraph;
- d. violating the provisions of Article 24;
- e. violating the duty to maintain confidentiality of Article 33;
- f. violating the provisions of Article 37, third, fourth or seventh paragraphs.

A person shall be subject to a fine for non-observance of an obligation of transfer pursuant to Article 14, sixth paragraph, or Article 16, third paragraph.

Violations as referred to in the first paragraph trigger criminal liability where they are the result of wilful or grossly negligent action. Violations as referred to in the second paragraph trigger criminal liability where they are the result of wilful or negligent action.

Legal entities may be fined for infringements as referred to in the first or second paragraphs irrespective of the liability for the entity's operations of any of the entity's

responsible managers, employees or other relevant persons. A legal entity may become liable for penalties even where it cannot be verified which of the above persons is responsible. The criminal liability of public authorities shall be subject to the same conditions provided that an infringement as described in the first or second paragraph has been committed in the context of an operation considered comparable to that of a privately run enterprise.

Attempted infringements and participation in infringements as described in the first and second paragraphs shall be punishable in accordance with the General Penal Code.

Where a natural person violates one or more of the provisions referred to in the first paragraph, items e and f, whether through wilful or negligent action, that person may be sentenced to the payment of compensation for financial loss and damages to the person concerned by the information.

■ **Article 48** *Regulatory powers*

The Minister may, by way of regulation, lay down further provisions on the implementation of this Act as a whole, or of individual sections thereof.

**Section XII Entry into force etc.**

■ **Article 49** *Entry into force*

This Act shall enter into force forthwith. ...

The provisions of the Act shall apply to all records covered by an obligation of transfer, irrespective of their date of creation or the date on which they were received by the entities subject to an obligation of transfer.

■ **Article 50** *Amendments to other Acts ...*

■ **Transitional provisions** Notwithstanding the provisions of Article 10, first paragraph, municipalities and inter-municipal cooperation societies operating regional archives shall be authorised to operate such archives, without having been issued an operating authorisation, for a period of three years from the date of entry into force of the Minister's regulation on authorisations to operate regional archives.

Notwithstanding the provisions of Article 10, second and third paragraphs, municipalities and inter-municipal cooperation societies shall not be required to move or transfer their holdings to the National Archives until three years after the entry into force of the Minister's regulation on authorisations to operate regional archives.

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*Disclaimer: This is an English translation. The original Icelandic text, as published in the Law Gazette (Sjórnatíðindi) is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.*