

THE HIMACHAL PRADESH PUBLIC RECORDS ACT, 2006
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THE HIMACHAL PRADESH PUBLIC RECORDS ACT, 2006

(ACT NO.24 OF 2006)¹

(Received the assent of the Governor on the 18th October, 2006 and published in Hindi and English in R.H.P. Extra., dated 19th October, 2006 p. 5319-5363.

AN ACT to regulate the management, administration and preservation of public records of the State Government, public sector undertakings, statutory bodies and corporations, commissions and committees constituted by the State Government and matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 25th August, 2006, p. 3980 and 3988.

Fifty-seventh Year of Republic of India, as follows:-

1. Short title.- Himachal Pradesh Public Records Act, 2006.

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

2. Definitions.

- (a) "Board" means the Archival Advisory Board constituted under sub-section (1) of section 13.
- (b) "Director" means the Director, Language, Art and Culture Department, Himachal Pradesh appointed by the State Government and includes any officer authorised by the State Government to perform the duties of the Director;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "public records" includes,-
 - (i) any document, manuscript and file;
 - (ii) any microfilm, microfiche and facsimile copy of a document;
 - (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (iv) any other material produced by a computer or by any other device;
- (e) "records creating agency" includes,-
 - (i) in relation to the State Government, any Department or office of the State Government;
 - (ii) in relation to any statutory body or corporation wholly or substantially controlled or financed by the State Government or commission or any committee constituted by the State Government, the offices of the said body, corporation, commission or committee;
 - (iii) in relation to local bodies, the offices of such bodies, Municipal Corporation, Municipal Councils or Nagar Panchayats of the State;
- (f) "Record Officer" means the officer nominated by the record creating agency under sub-section (1) of section 5;
- (g) "State" means State of Himachal Pradesh;
- (h) "State Archives" means a person holding the charge of the Archives of the State of Himachal Pradesh; and
- (i) "State Government" means the Government of Himachal Pradesh.

3. Powers of the State Government. - (1) The State Government

shall coordinate, regulate and supervise the operations connected with the administration, management, preservation, selection, disposal and retirement of public records under this Act.

(2) The State Government, in relation to the public records of the records creating agencies specified in sub-clauses (i), (ii) and (iii) of clause (e) of section 2, may, by order, authorise the Director or the State Archives, as the case may be, subject to such conditions as may be specified in the order, to carryout all or any of the following function, namely:-

- (a) supervision, management and control of the Archives;
- (b) acceptance for deposit of public records of permanent nature after such period as may be prescribed;
- (c) custody, use and withdrawal of public records;
- (d) arrangement, preservation and exhibition of public records;
- (e) preparation of inventories, indices, catalogues and other reference media of public records;
- (t) analyse, developed, promote and coordinate the standards, procedures and the techniques for improvement of the records management system;
- (g) ensure the maintenance, arrangement and security of public records in the Archives and in the offices of the records creating agency;
- (h) promote utilisation of available space and maintenance of equipments for preserving public records;
- (i) tender advice to records creating agencies on the compilation, classification and disposal of records and application of standards, procedures and techniques of records management;
- (j) survey and inspection of public records;
- (k) organise training programmes in various disciplines of Archives administration and records management;
- (l) accept records from any private source;
- (m) regulate access to public records;
- (n) receive records from defunct bodies and make arrangement for securing public records in the event of national emergency;
- (o) receive reports on records management and disposal practices from the Record Officer;
- (p) provide authenticated copies of, or extracts from, public records;
- (q) destroy or dispose of public records; and

- (r) obtain on lease or purchase or accept as gift any document of historical or national importance;

4. Prohibition against taking of public records out of State.- No person shall take or cause to be taken out of State any public records without the prior approval of the State Government:

Provided that no such prior approval shall be required if any public records are taken or sent out of State for any official purpose.

5. Record Officer. - (1) Every records creating agency shall nominate one of its officers as Record Officer to discharge the functions under this Act.

(2) Every records creating agency may set up such number of record rooms in such places as it deems fit and shall place each record room under the charge of a Record Officer.

6. Responsibilities of Record Officer.- (1) The Record Officer shall be responsible for,-

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

(2) The Record Officer shall act under the directions of the Director, while discharging the responsibilities specified in sub-section (1).

7. Powers and functions of the Record Officer.- (1) The Record Officer shall, in the event of any unauthorised powers and removal, destruction, defacement or alteration of any public records under his charge, forthwith take appropriate action for the recovery or restoration of such public records.

(2) The Record Officer shall submit a report in writing to the Director without any delay on any information about any unauthorised removal, destruction, defacement or alteration of any public records under his charge and about the action initiated by him and shall take action as he may deem necessary subject to the directions, if any, given by the Director.

(3) The Record Officer may seek assistance from any Government officer or any other person for the purpose of recovery or restoration of public records and such officer or person shall render all assistance to the Record Officer.

8. Destruction or disposal of public records.- (1) Save as otherwise provided in any law for the time being in force, no public records shall be destroyed or otherwise disposed of except in such manner and subject to such conditions as may be prescribed.

(2) Public record created before the year 1900 shall not be destroyed except where in the opinion of the Director it is so defaced or is in such condition that it cannot be put to any archival use.

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

10. No public records bearing security classification.- No public records bearing security classification shall transferred to the State Archives.

11. Receipt of records from private sources.-(1) The State Archives may accept any record of historical or national importance from any private source by way of gift, purchase or otherwise.

(2) The State Archives may, in such manner and subject to such conditions as may be prescribed make any record referred to in subsection (1) available to any bona-fide research scholar.

12. Access to public records.- (1) All unclassified public records as are more than thirty years old and are transferred to the State Archives, may, subject to such exceptions and restrictions as may be prescribed, be made available to any bona-fide research scholar.

Explanation.-For the purpose of this sub-section, the period of thirty years shall be reckoned from the year of the opening of the public record.

(2) Any records creating agency may grant to any person access to any public record in its custody, in such manner and subject to such conditions as may be prescribed.

13. Archival Advisory Board.- (1) The State Government may, by notification in the Official Gazette, constitute an Archival Advisory Board for the purposes of this Act.

(2) The Board shall consist of the following members, namely:-

- (a) Chairman.- Secretary, Language, Arts and Culture to the Government of Himachal Pradesh;
- (b) Ex -officio members.- Five officers not below the rank of Joint Secretary to the Government of Himachal Pradesh one each from the Department of Home, Finance, Personnel, General Administration Department and Urban Development;
- (c) Nominated members.- three persons to be nominated by the State Government for a period not exceeding three years, one being a Deputy Director (Archives) and one being Archivist or Technical Assistant and one being Professor in the Post-Graduate Department of History in any recognised University; and
- (d) Member-Secretary.- Director, Language, Arts and Culture, Himachal Pradesh, Shimla.

(3) The members nominated under clause (c) of sub-section (2) shall be paid such allowances as may be prescribed.

14. Functions of the Boards.-The Board shall perform the following functions, namely:-

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

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

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

17. Power to make rules. - (1) The State Government may, by

notification in the Official Power to Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) the period after which public records of permanent nature may be accepted under clause (b) of sub-section (2) of section 3;
- (b) the manner in which and the conditions subject to which public records can be destroyed under clause (d) of sub-section (1) of section 6;
- (c) the manner in which periodical review of classified public records for downgrading shall be undertaken under clause (f) of sub-section (1) of section 6;
- (d) the manner in which ,the Record Officer shall submit annual report to the Director under clause (k) of sub-section (1) of section 6;
- (e) the manner in which and the conditions subject to which public records may be destroyed or disposed of under sub-section (1) of section 8;
- (f) the manner in which and the conditions subject to which records of historical or national and State importance may be made available to research scholar under sub-section (2) of section 11;
- (g) exceptions and restrictions subject to which public records may be made available to a research scholar under sub-section (1) of section 12;
- (h) the manner in which and the conditions subject to which any records creating agency may grant to any person access to public records in its custody under sub-section (2) of section 12;
- (i) the allowances payable to members of the Board under sub-section (3) of section 13;
- (j) the matters with respect to which the Board may perform its functions under clause (d) of section 14; and
- (k) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislative Assembly while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislative Assembly agree in making any modification in the rule or agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so,

however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
