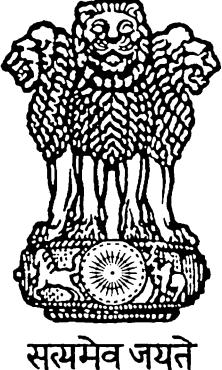


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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 1707-L.—16th December, 2010.—The Governor having been pleased to order, under rule 66 of the Rules of Procedure and Conduct of Business in the

West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

**Bill No. 38 of 2010**

**THE WEST BENGAL PUBLIC RECORDS  
BILL, 2010.**

**A**

**BILL**

*to regulate the management, administration and preservation of public records of the State Government, Public Sector Undertakings, Statutory bodies, Municipal Corporation and other Local authorities, Commissions and Committees constituted by the State Government of West Bengal and matters connected therewith or incidental thereto.*

WHEREAS it is expedient, in the public interest, to regulate the management, administration and preservation of public records of the State Government, Public Sector Undertakings, Statutory bodies, Municipal Corporation, other Local authorities, Commission and Committees constituted by the State Government of West Bengal and matters connected therewith or incidental thereto;

*The West Bengal Public Records Bill, 2010.**(Clauses 1-3.)*

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the West Bengal Public Records Act, 2010.
- (2) It shall extend to the whole of the West Bengal.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
  - (a) “Committee” means the Archival Advisory Committee constituted under sub-section (1) of section 13;
  - (b) “Director” means the Director of State Archives 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, of any records creating agency;
  - (e) “records creating agency” includes,—
    - (i) any Department, Directorate or Office of the State Government;
    - (ii) any Statutory body or Local authorities wholly or substantially controlled or financed by the State Government or by the Central Government at the request of the State Government, or commission or any committee constituted by the State Government, the offices of the said body, corporation, local authorities, commission or committee;
  - (f) “records officer” means the officer nominated by the records creating agency under sub-section (1) of section 5;
  - (g) “State Archives” means the Directorate of State Archives, Government of West Bengal;
  - (h) “State Government” means the State Government of West Bengal.

Power of the State Government to co-ordinate, regulate and supervise the operations, connected with the administration, management, preservation, selection, disposal and retirement etc. of public records.

3. (1) The State Government shall have the power to co-ordinate, regulate and supervise the operations connected with the administration, management, preservation, selection, disposal and retirement of public records under this Act.
- (2) The State Government in relation to the public records of the records creating agencies may, by Order, authorise the Director, subject to such conditions as may be specified in the Order, to carry out all or any of the following functions, namely:—
  - (a) supervision, management and control of the State 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;

*The West Bengal Public Records Bill, 2010.**(Clauses 4-6.)*

- (f) analysing, developing, promoting and co-ordinating the standards, procedures and the techniques for improvement of the records management system;
- (g) ensuring the maintenance, arrangement and security of public records in the State Archives and in the offices of the records creating agency;
- (h) promoting utilisation of available space and maintenance of equipments for preserving public records;
- (i) tendering advice to records creating agencies on the compilation, classification and disposal of public records and application of standards, procedures and techniques of records management;
- (j) survey and inspection of public records;
- (k) organising training programmes in various disciplines of Archives administration and records management;
- (l) accepting records from any private source;
- (m) regulating access to public records;
- (n) receiving records from defunct bodies and making arrangement for securing public records in the event of national emergency;
- (o) receiving reports on records management and disposal practices from the records officer;
- (p) providing authenticated copies of, or extracts from, public records;
- (q) destroying or disposal of public records;
- (r) obtaining on lease or purchasing or accepting as gift any document of historical or national importance.

Prohibition  
against taking of  
public records out  
of West Bengal.

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

Provided that no such approval shall be required if any public records are taken or sent, out of the State of West Bengal for any Official purpose.

Record Officer.

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

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

Responsibilities of  
record officer.

- 6.** (1) The records officer shall be responsible for—
  - (a) proper arrangement, maintenance and preservation of public records under his charge;
  - (b) periodical review of all public records and weeding out public records of ephemeral value;
  - (c) appraisal of public records which are more than twenty-five years old in consultation with the Director;
  - (d) destruction of public records in such manner and subject to such conditions as may be prescribed under sub-section (1) of section 8;
  - (e) compilation of a schedule of retention for public records in consultation with the Director;
  - (f) periodical review for downgrading of classified public records in such manner as may be prescribed;

*The West Bengal Public Records Bill, 2010.**(Clauses 7-12.)*

- (g) adoption of such standards, procedures and techniques as may be recommended by the 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) submission of annual report to the Director;
- (k) transferring of records of any defunct body to the Director for preservation;
- (l) for assisting the Director for public records management.

(2) The records officer shall act under the direction of the Director while discharging the responsibilities specified in sub-section (1).

Record Officer to take appropriate action in the event of unauthorised removal, destruction, defacement etc. of public records in his custody.

**7.** (1) The records officer shall, in the event of any unauthorised removal, destruction, defacement or alteration of any public records under his charge, forthwith take appropriate action for the recovery or restoration of such public records.

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

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

Destruction or disposal of public records.

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

(2) No record, which is more than hundred years old, shall be destroyed except where in the opinion of the Director, it is so defaced or is in such condition that it cannot be put to any archival use.

Penalty for contraventions.

**9.** Whoever contravenes any of the provisions of section 4 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 shall be transferred to the State Archives.

Public records bearing security classification.

**11.** (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 sub-section (1) available to any *bona fide* research scholar.

**12.** (1) All unclassified public records as are more than thirty years old and are transferred to the State Archives may be, subject to such exceptions and restrictions as may be prescribed, 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.

Access to public records.

*The West Bengal Public Records Bill, 2010.**(Clauses 13-17.)*Archival  
Advisory  
Committee.**13.** (1) The State Government may, by notification in the *Official Gazette*, constitute an Archival Advisory Committee for the purposes of this Act.

(2) The Archival Advisory Committee shall consist of the following members, namely:—

- (a) a reputed historian as Chairman and three eminent scholars with research experience in handling archival materials and two professional Archivists as Members for a period not exceeding three years to be nominated by the State Government;
- (b) the Secretary to the Government of West Bengal, Higher Education Department and one officer not below the rank of Joint Secretary to the Government of West Bengal, each from the Home Department, Finance Department, and Judicial Department as *ex officio* Members;
- (c) Director, State Archives as Member Secretary.

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

Functions of the  
Committee.**14.** The Committee shall perform the following functions, namely:—

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

Power of the  
Director to lay  
down norms and  
standards for  
courses in archival  
science.**15.** The Director shall have the power to lay down norms and standards for courses, curriculum, assessment and examinations relating to the training in archival science and other ancillary subjects.Protection of  
action taken in  
good faith.**16.** No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.Power to make  
rules.**17.** (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

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

- (a) the period after which public records of permanent nature may be accepted under clause (b) of sub-section (2) of section 3;
- (b) the manner in which and the conditions subject to which the public records can be destroyed under clause (d) of sub-section (1) of section 6;
- (c) the manner in which periodical review of classified public records for downgrading shall be undertaken under clause (f) of sub-section (1) of section 6;
- (d) the manner in which the records officer shall submit annual report to the Director under clause (j) of sub-section (1) of section 6;
- (e) the manner in which and the conditions subject to which public records may be disposed of under sub-section (1) of section 8;
- (f) the manner in which and the conditions subject to which records of historical and national importance may be made available to a research scholar under sub-section (2) of section 11;
- (g) exceptions and restrictions subject to which public records may be made available to research scholar under sub-section (1) of section 12;

*The West Bengal Public Records Bill, 2010.**(Clauses 18, 19.)*

- (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 Committee under sub-section (3) of section 13;
- (j) the matters with respect to which the Committee may perform its functions under clause (d) of section 14;
- (k) any other matter which is required to be, or may be, prescribed for carrying out the purposes of this Act.

Laying of rules  
before State  
Legislature.

**18.** Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following the session or successive session aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees 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.

Removal of  
difficulties.

**19.** If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by Order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removal of difficulty, and any such Order shall be final:

Provided that no such Order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

**STATEMENT OF OBJECTS AND REASONS.**

It is essential in the Public interest that the records lying in the Public and private custody in the State of West Bengal should be in safe custody and should be properly utilised.

2. With the above objects in view, it has been considered necessary and expedient to regulate the management, administration and preservation of records of the State Government, Public Sector Undertakings, Statutory bodies, Municipal Corporation, Other local authorities, Commissions and Committees constituted by the State Government of West Bengal.

3. The Bill has been framed keeping in view the above objects.

KOLKATA,  
The 16 December, 2010.

SUDARSAN RAYCHAUDHURI,  
Member-in-charge.

*The West Bengal Public Records Bill, 2010.*

#### FINANCIAL MEMORANDUM.

For maintenance and preservation etc. of public and private records to be acquisitioned after enactment of the Bill, additional fund will be required. Hence, budget provision in this respect has to be enhanced.

In some cases the State Government shall have to pay for acquisition of private records.

Fund will be required for holding meetings of the Archival Advisory Committee to be constituted by the State Government. Transport facilities will have to be extended to some of the members of the said committee for attending the meetings and for their visit to the districts in connection with survey of records, private documents etc. In this respect transport facilities will be provided to some Archival Officers also.

Necessary provision in the State Budget under the relevant head of account will be made to meet the above mentioned expenditure.

KOLKATA,  
*The 16 December, 2010.*

SUDARSHAN RAYCHAUDHURI,  
*Member-in-charge.*

By order of the Governor,

K. Y. S. MANHAS,  
*Pr. Secy.-in-charge to the Govt. of West Bengal,  
Law Department.*