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Ordinance to the Federal Act on Archiving (Archiving Ordinance)

of 8 September 1999 (Status as of 1 January 2022)

The Swiss Federal Council,

based on Article 24 of the Archiving Act of 26 June 1998¹ (ArchA),
ordains:

Chapter 1 General Provisions

Art. 1 Subject matter

¹ This Ordinance governs the rights and obligations of the bodies required to offer their documents to the Swiss Federal Archives (the Federal Archives) and the independent archiving bodies within the scope of the Act, the rights and obligations of the Federal Archives, and access to and the commercial use of the archive records.

² Unless otherwise provided below, the provisions apply by analogy to independent archiving bodies.

Art. 2 Scope of application

(Art. 1 ArchA)

¹ The Federal Assembly, the Federal Council, the Parliamentary Services, the Swiss National Bank and the federal bodies listed in Annex 1 and defined in Article 1 paragraph 1 letters b – d and g of the Act shall fall within the scope of this Ordinance.

² The autonomous institutes of the Confederation and similar federal institutions as per Article 1 paragraph 1 letter e of the Act that are subject to this Ordinance are listed in Annex 2.

³ Public or private law bodies in terms of Article 1 paragraph 1 letter h of the Act are deemed to be persons or institutions assigned sovereign competencies, specifically powers of disposal, or subject to full, direct supervision by the Confederation in their enforcement tasks. The Federal Department of Home Affairs (Department) shall list these persons and institutions in an ordinance.

AS 1999 2424

¹ SR 152.1

⁴ The Department may amend or supplement Annexes 1 and 2 in consultation with the relevant bodies.

Art. 3 Transparency
(Art. 2 para. 2 and Art. 5 paras. 2 and 3 ArchA)

¹ The bodies required to offer their documents to the Federal Archives shall ensure that their activities can be verified and justified on the basis of those documents. They shall take the organisational, administrative and technical measures necessary for the production and management of documents fit for archiving.

² ...²

Chapter 2 Safekeeping of Documents

Art. 4 Commencement of obligation to offer documents to the Federal Archives
(Art. 6 ArchA)

¹ Documents shall be deemed no longer constantly required and hence must be offered to the Federal Archives when the body bound to make such offer is no longer using them frequently and regularly. Such offer shall be made no later than five years after the last addition to the records.³

² The Federal Archives may extend the term of paragraph 1 if the body required to offer its documents can submit justification that it still needs them.

³ Special categories of documents shall be offered and, where applicable, transferred immediately after drafting or signature. State Treaties shall be offered through the Directorate of Public International Law. The Federal Archives shall regulate the details in directives.

Art. 5 Methods of obligatory offering and transfer of documents
(Arts. 5, 6 and 7 ArchA)

¹ The body required to offer its documents to the Federal Archives shall ensure that the documents are prepared so that they can be assessed for archival value and, where applicable, archived without extra expense.

² The body required to offer its documents to the Federal Archives shall suggest which documents are of archival value from a legal and administrative point of view.

³ Requirements for special retention periods under Article 12 of the Act shall be indicated at the time of offering.

² Repealed by Art. 20 No 2 of the GEVER Ordinance of 3 April 2019, with effect from 1 April 2020 (AS 2019 1311).

³ Amended by Art. 20 No 2 of the GEVER Ordinance of 3 April 2019, in force since 1 April 2020 (AS 2019 1311).

⁴ The Federal Archives shall issue directives governing the details of the obligation to offer documents to it and of their transfer.

Art. 6 Establishment of archival value

(Arts. 7 and 8 ArchA)

¹ The Federal Archives shall decide whether documents should be permanently archived, taking account of the suggestions of the body required to offer its documents to it. It shall assess the documents offered using historical and archival criteria.

² If the Federal Archives and the body obliged to offer its documents disagree on the archival value of documents, they shall be archived.

³ The Federal Archives shall co-operate with the independent archiving bodies to decide whether such documents are of archival value.

⁴ The Federal Archives shall assess the archival value of the documents offered within a period of one year. If it fails to reach a decision, the archiving obligation shall lapse. Such period may be extended if the Federal Archives demonstrates that it cannot assess the documents in time.

Art. 7 Independent archiving

(Art. 4 paras. 3–5 ArchA)

¹ The Swiss National Bank and the autonomous federal institutions and similar federal institutions designated in Annex 2 shall archive their documents independently.

² The other public or private law bodies as per Article 1 paragraph 1 letter h of the Act and Article 2 paragraph 3 of the Ordinance who fulfil enforcement tasks assigned to them by the Confederation, the Federal Criminal Court; Federal Administrative Court and the Federal Appeal and Arbitration Commissions as per Art. 1 paragraph 1 letter d of the Act (Annex 1) shall inform the Federal Archives whether they wish to archive their documents independently.⁴

³ The Federal Archives shall agree to independent archiving in the terms of paragraph 2 if the conditions of Article 8 paragraph 1 are met.

⁴ If the bodies named in paragraph 2 do not carry out independent archiving, they shall be required to offer their documents to the Federal Archives. The Federal Archives may charge them the costs of such archiving.

⁵ Bodies which carry out independent archiving shall, like federal departments and within their sphere of competence, ensure that their activities can be verified and justified on the basis of their documents.

⁴ Amended by No IV 2 of the O of 22 Aug. 2007 on the Formal Revision of Federal Legislation, in force since 1 Aug. 2008 (AS 2007 4477, 2008 3452).

Art. 8 Assurance of uniform archiving practice

(Art. 4 paras. 3–5 ArchA)

¹ Independent archiving bodies as per Article 1 paragraph 1 letters d, e and h of the Act shall reach an agreement with the Federal Archives on the composition, safe-keeping, preservation and making accessible of their documents. They shall provide the necessary human, accommodation and financial resources.

² The Federal Archives shall be authorised to inspect registries or information management units of such independent archiving bodies and to inspect the condition of the documents held there.

³ The Federal Archives may withdraw its consent to independent archiving or apply for such withdrawal if the archiving obligation is not being fulfilled, or not fulfilled in accordance with the principles of the Act.

⁴ In the event of revocation the costs of transfer, further archiving and restoration of any damage incurred shall be met by the body which produces the documents.

Art. 9 Obligation to conclude a contract for private law orders

(Art. 24 para. 2 ArchA)

Where orders are performed under private law, the body placing the order shall govern the archiving of the documents beforehand by contract after agreement with the Federal Archives.

Chapter 3 Access to Archive Records**Section 1 General****Art. 10** Principles

(Arts. 9, 11 and 12 ArchA)

¹ Anyone shall have the right of access to the Confederation archive records after expiry of the retention periods in Articles 9, 11 and 12 of the Act.

² The right to consult the archive records shall comprise in particular:

- a. consultation of research aids;
- b. consultation of documents;
- c. photographic, photomechanical or digital reproduction, subject to conservation restrictions; and
- d. the reproduction and further use of obtained information, subject to the legal provisions protecting personal rights, especially data protection.

Art. 11 Fees

(Art. 24 para. 1 ArchA)

¹ The basic services of the Federal Archives such as support in identifying the documents and allowing consultation shall be free of charge, insofar as this is compatible with efficient administration.

² The costs of additional services such as copying shall be charged according to time spent and costs of materials.

³ The Federal Department of Home Affairs shall issue a fee schedule.

Art. 12 Finding aids

(Art. 17 para. 3 ArchA)

¹ Finding aids shall be freely accessible to investigate the archive records and may be produced and published for this purpose by the Federal Archives.

² Finding aids shall be catalogues, lists, indices, conventional files, digital files and other aids allowing access to the archive records by enumerating or describing them.

³ Finding aids which, as such, contain sensitive personal data or personality profiles shall only be published after expiry of the retention period. Before such expiry, publication shall only be permitted in accordance with Articles 11 and 13 of the Act.

Section 2 Retention Periods**Art. 13** Calculation of retention period

(Art. 10 ArchA)

¹ The retention period shall as a rule cover a whole file or transaction.

² The year of the most recent document shall serve as the basis for setting the retention period. Documents added later which contain no information of relevance to the matter shall not count towards the retention period.

³ The competent authority may release documents still covered by the retention period if:

- a. the main focus of the research is on documents dated outside the retention period;
- b. if contextual source criticism necessitates access to all the documents.

Art. 14 Extended retention period

(Arts. 11 and 12 ArchA)

¹ Archive records that are classified according to the names of people and which contain sensitive personal data or personality profiles shall be covered by the 50-year extended retention period in accordance with Article 11 of the Act. In an individual case, this may be reduced in accordance with Articles 11 and 13 of the Act or extended in accordance with Article 12 paragraph 2 of the Act.