



LAWS OF KENYA



## **RECORDS DISPOSAL ACT**

CHAPTER 14

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**CHAPTER 14**

**RECORDS DISPOSAL ACT**

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**CHAPTER 14**

**RECORDS DISPOSAL ACT**

[Date of assent: 28th May, 1962.]

[Date of commencement: 12th June, 1962.]

**An Act of Parliament to provide for the disposal of records in the custody of the High Court or of the Registrar-General**

[Act No. 12 of 1962, L.N. 2/1963, Act No. 32 of 1965.]

**1. Short title**

This Act may be cited as the Records Disposal Act.

**2. Power to make rules for the disposal of records**

(1) The Chief Justice after consultation with the Chief Archivist, and subject to the provisions of the Public Archives Act (Cap. 19), may from time to time make rules to provide for the disposal by destruction or otherwise of such records, books and papers, belonging to or being in the custody of the High Court or of courts of civil or criminal jurisdiction subordinate thereto, as he may consider to be of no further use or unworthy of being permanently preserved.

(2) The Attorney-General may, after consultation with the Chief Archivist, and subject to the provisions of the Public Archives Act (Cap. 19), from time to time make rules to provide for the disposal by destruction or otherwise of such records, books and papers, belonging to or being in the custody of the Registrar-General as he may consider to be of no further use or unworthy of being permanently preserved.

(3) For the purposes of this section, “**Registrar-General**” includes the officers specified in the Schedule to this Act.

[L.N. 2/1963, Act No. 32 of 1965, s. 16.]

**3. Saving**

Nothing herein contained shall be deemed to authorize the destruction of any document which under the provisions of any law for the time being in force is required to be kept or maintained.

**4. No suit to lie on account of destruction**

No suit or other proceeding shall be instituted against any person in respect of the disposal by destruction or otherwise of any records, books or papers in accordance with any rules made under this Act.

**5. Repeal**

The Records (Disposal) Act (Cap 17) is hereby repealed.

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## SCHEDULE

[Section 2(3).]

## OFFICERS INCLUDED IN THE DEFINITION OF "REGISTRAR-GENERAL"

<i>Officer</i>	<i>Act under which appointed</i>
Official Receiver.	Bankruptcy Act (Cap. 53) – section 74.
Registrar of Societies.	Societies Act (Cap. 108) – section 8.
Registrar of Books and Newspapers.	Books and Newspapers Act (Cap. 111) – section 3.
Registrar-General of Births and Deaths.	Births and Deaths Registration Act (Cap. 149) – section 3.
Registrar-General of Marriages.	Marriage Act (Cap. 150) – section 2.
Public Trustee.	Public Trustee Act (Cap. 168) – section 3.
Registrar of Trade Unions.	Trade Unions Act (Cap. 233) – section 5.
Registrar of Companies.	Companies Act (Cap. 486) – section 382.
Registrar of Insurance Companies.	Insurance Companies Act (Cap. 487) – section 3.
Registrar of Building Societies.	Building Societies Act (Cap. 489) – section 3.
Registrar of Business Names.	Registration of Business Names Act (Cap. 499) – section 3.
Registrar of Trade Marks.	Trade Marks Act (Cap. 506) – section 3.
Registrar of Patents.	Patents Registration Act (Cap. 508) – section 2.
Assistant Estate Duty Commissioner.	Estate Duty Act (Cap. 483) – section 2.

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**CHAPTER 14**

**RECORDS DISPOSAL ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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**RECORDS DISPOSAL (COURTS) RULES, 1968**

[L.N. 364/1968, L.N. 183/1979.]

1. These Rules may be cited as the Records Disposal (Courts) Rules, 1968.
2. Any record, book or paper belonging to or being in the custody of the High Court or any court of civil or criminal jurisdiction subordinate thereto, being a record, book or paper described in the first column of the First Schedule to these Rules, may be destroyed by the court or officer having the custody thereof after the lapse of such period (if any) as is specified in relation thereto in the second column of the said Schedule:  
Provided that—
  - (i) no record, book or paper which may be required for the trial of an offender still at large, or for the identification of stolen property, shall be destroyed; and
  - (ii) no court record shall be destroyed unless the appropriate court register contains a sufficient summary in civil cases of the names of the parties, the nature of the claim and the result of the trial, and in criminal cases of the name of the accused, the nature of the charge and the sentence or order.
3. Before destroying any record, book or paper, the court or officer desiring to destroy the same shall—
  - (a) give at least three months' notice in the *Gazette*, in the form No. 1 in the Second Schedule to these Rules, of his intention to apply to the Chief Justice for leave to destroy the same, together with a summarized description in the notice of the record, book or paper in question; and
  - (b) not earlier than three months after the giving of such notice obtain leave in writing from the Chief Justice to destroy the record, book or paper.
4. Any exhibit attached to any record of which notice of intended destruction has been given under rule 3 of these Rules shall, if the same is not claimed by the owner therefor before the destruction of the record, be deemed to be part of the record for the purpose of destruction.
5. At any time after the expiration of three months from the giving of a notice in the *Gazette* under rule 3 of these Rules, the Chief Justice may grant leave to destroy any record, book or paper in respect of which such notice was given.
6. All records, books and papers to be destroyed under these Rules shall be burnt in the presence of a magistrate or a deputy registrar of the High Court, or any other officer authorized by either a magistrate or a deputy registrar who shall—
  - (a) make an entry in the appropriate court register in red ink of the letter "D" and the date of destruction against the particulars therein of the case to which each such record, book or paper relates; and
  - (b) in respect of records, books or papers destroyed by leave of the Chief Justice under rule 5 of these Rules, submit a certificate to the Chief Justice in the form No. 2 in the Second Schedule to these Rules, giving particulars of the records destroyed.
7. There shall be kept by the Judicial Department a register in which shall be entered particulars of each record, book or paper destroyed by leave of the Chief Justice granted under rule 5 of these Rules, together with the date of destruction and reference to the certificate submitted under rule 6(b) of these Rules respecting the same.

## Records Disposal

[Subsidiary]

## FIRST SCHEDULE

[Rule 2.]

<i>Description of Records, Books and Papers that may be Destroyed</i>	<i>Period After which the Same may be Destroyed</i>
1. All records, books and papers rendered illegible or useless by climate, insects, vermin, fire or water.	At once.
2. All records, books and papers relating to civil court proceedings where the cause of action was other than—	
(a) title to immovable property;	
(b) administration of the estate of an infant, a lunatic or a deceased person;	12 years from the date of the final judgment or order.
(c) right of heirship;	
(d) status of an individual class or tribe;	
(e) right of way, right to water, air or light or other easement;	
(f) custom of tribe, community or locality.	
3. All records, books and papers relating to criminal proceedings in which acquittals or discharges have been ordered, or fines only imposed, or orders for security made, or sentences of imprisonment not exceeding one year passed, or in which an accused person has been committed for trial; and complaints dismissed by a magistrate.	3 years from the date of judgment or final order.
[L.N. 183/1979.]	
4. Police reports of deaths and records of inquests.	3 years from date.
5. Miscellaneous police reports.	3 years from date.
6. Reports of railway accidents.	3 years from date.
7. Judicial returns from subordinate courts.	3 years from date.
8. Books of account lodged in connection with bankruptcy proceedings where a discharge has been granted to the bankrupt.	3 years from date of discharge.
9. Miscellaneous correspondence regarding dates of trial, service of summonses and notices, execution of warrants, transfer of proceedings, attendance of witnesses, records and returns called for, preparation of annual lists and summoning of jurors and assessors, requisitions for forms, and <i>documentsejusdem generis</i> with the foregoing.	3 years from date.
10. Books of account and miscellaneous papers, other than official records relating to estates of deceased persons which have been distributed and of which the accounts have been audited.	3 years from date of audit.
11. Copy letter books	10 years from date.
12. Books of account lodged in connection with bankruptcy proceedings.	12 years from date of adjudication.

Records Disposal

[Subsidiary]

SECOND SCHEDULE

[Rules 3(a), 6(b).]

Form No. 1

NOTICE OF INTENDED DESTRUCTION OF COURT RECORDS

In accordance with the Records Disposal (Courts) Rules, notice is hereby given that three months after the date of this notice I intend to apply to the Chief Justice for leave to destroy the records, books and papers of the court of the ..... at ..... as set out below.

Year ..... Civil Proceedings numbered .....

Year ..... Criminal Proceedings numbered .....

Any person desiring the return of an exhibit in any of the above cases must make good his claim before the ..... day of ....., 20 .....

All exhibits to which no claim is substantiated as above will be liable to be destroyed.

Dated this ..... day of ....., 20 .....

.....  
Designation

Form No. 2

CERTIFICATE OF DESTRUCTION

I, ..... of ..... hereby certify that under and in accordance with the Records Disposal (Courts) Rules and with the leave of the Chief Justice dated ....., the below-mentioned records, books and papers were in my presence then and there, completely destroyed by fire, together with all stamps and seals thereto belonging.

Year ..... Civil Proceedings numbered .....

Year ..... Criminal Proceedings numbered .....

Dated this ..... day of ....., 20 .....

.....  
Designation

