

Disposal Schedule for Functional Records of Registration Services - Consumer Affairs and Fair Trading

Disposal Authorisation No: 2490

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INTRODUCTION

Overview

Archives Legislation

The *Archives Act 1983* stipulates that State and local government organisations must not dispose of records of any type or format without the written approval of the State Archivist.

Disposal of records involves their destruction, their removal from custody of their creating agency, or their transfer to the Tasmanian Archive and Heritage Office.

Schedule elements and arrangement

The administrative functions covered by this schedule are arranged in alphabetical order as function headings. The activities performed under each function are listed in alphabetical order within each function.

- *Reference*

All function and activity headings and disposal classes are allocated a reference number. These reference numbers are used, in conjunction with the schedule number, to identify records in the Tasmanian Archive and Heritage Office disposal documentation. These numbers can also be used by agencies, in the same way, to indicate disposal authorisation in their records control systems, where the records have been registered in these systems.

- *Disposal Classes*

The groups of records that document, and are derived from, the performance of the functions and activities, are listed as disposal classes under each function/activity set.

It should be noted that Disposal Classes have been described in functional terms irrespective of the format or medium in which the records were created.

- *Status*

All disposal classes have either "PERMANENT" or "TEMPORARY" status. Records identified as "PERMANENT" are those that will be transferred to the Archives Office to be retained as State archives. "TEMPORARY" records are those that can be destroyed under the authority of this schedule.

- *Disposal action*

All temporary records identified in this schedule will have a disposal action which specifies the length of time for which the record must be retained, before it can be destroyed under this authorisation.

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Review of the schedule

It is the responsibility of agencies to monitor administrative, legal or regulatory changes which may result in the need to alter disposal class descriptions or disposal actions for records covered by this schedule.

When this occurs, this schedule should not be used to dispose of records and the State Archivist should be informed of the need to revise the schedule. If necessary, the procedures for the disposal of unscheduled records can be used in the interim.

Contacts

Any enquiries relating to this schedule should be directed in writing to the Tasmanian Archive and Heritage Office, 91 Murray Street Hobart, by email, or by phoning 03 6165 5581.

Acknowledgements

The Tasmanian Archive and Heritage Office wishes to acknowledge Erik Peacock.

Authorisation

Authorisation

Under Section 20 (2) (b) of the Archives Act 1983, I hereby authorise 'relevant authorities' (as defined in Section 3 of that Act) to manage the disposal of the records described in this schedule in accordance with the procedures specified herein.

Ross Latham

State Archivist

Document Development History

Version	Date	Reason	Sections
1.0	09-11-2017	Initial release	All

Interpretation

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Definitions

Permanent records are those that will be transferred to the Tasmanian Archive and Heritage Office to be retained as State Archives. The *Archives Act 1983* establishes 25 years as the maximum required timeframe for the transfer of permanent records, unless an extension of time has been approved by the State Archivist.

Temporary records are those that can be destroyed under the authority of this schedule after a minimum retention period, or once certain requirements have been met.

Coverage

This schedule covers functional records of Registration Services of Consumer Affairs and Fair Trading.

This schedule does not cover **pre-1960** records. The disposal of those records should be managed according to the procedures for unscheduled records.

The *Disposal Schedule for Short-term Value Records - DA No. 2158* covers the disposal of short-term value records which are created by most agencies. These documents are usually of a trivial nature or of such short-term value that they do not support or contribute to the business functions of the agency.

Records not covered by these schedules, or other authorised disposal schedules, should be disposed of according to the current Tasmanian Archive and Heritage Office procedures for unscheduled records.

Preservation of records

Section 10 (1) (a) of the *Archives Act 1983* requires agencies to preserve records until they are dealt with under the Act. This places a statutory obligation on agencies to ensure that all records, regardless of format, remain accessible while they are in the custody of the agency.

Permanent Records

All disposal classes of records identified as having '**PERMANENT**' status in this schedule should be transferred to the Tasmanian Archive and Heritage Office 25 years after the date of creation. Agencies may make application to the Tasmanian Archive and Heritage Office for earlier transfer of particular groups of records, and the Tasmanian Archive and Heritage Office may also initiate an earlier transfer arrangement.

Records for transfer should be arranged and described in accordance with any instruction provided by the Tasmanian Archive and Heritage Office.

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Temporary Records

All records identified as having '**TEMPORARY**' status in this schedule will have a disposal action which is the authorised date for destruction. These disposal actions specify minimum retention periods. Temporary records can be kept as long as the agency wishes following expiration of the specified period, but the provisions of the *Archives Act 1983* regarding their proper care and custody will still apply to them.

Frequently the disposal actions will refer to 'after action completed' which means after completion of the transaction to which the records relate. The disposal action 'destroy when reference ceases' authorises the destruction of records when all business needs to refer to the records have ceased.

Destruction of records

The destruction method chosen for records authorised for destruction in this schedule, should be appropriate to the medium in which the record exists. It is the responsibility of the agency to ensure that the identified records are actually destroyed, and that this process is confidential and secure.

The following issues should be considered before destruction of any documents.

Right to Information

Right to Information legislation prescribe rights and processes for access to documents held by government agencies. If a request for access under the legislation has been lodged, all records relevant to the request, regardless of whether they are due for destruction, must be identified and preserved until action on the request and any subsequent reviews are completed.

Personal Information Protection

Personal Information Protection legislation provides appropriate safeguards for government agencies in collecting and handling individual's personal information, creating statutory obligations and a right to make a privacy complaint. If an application is in progress, all records relevant to the application must be identified and preserved until the action and any subsequent actions are completed.

Other Investigations or inquiries

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If an investigation or inquiry is in progress, all records relevant to the investigation or inquiry must be identified and preserved until the action and any subsequent actions are completed.

Records relating to indigenous people

Key recommendations of the *Bringing Them Home Report 1997* relate to the need for the identification, preservation, indexing, management and access to records relating to Indigenous individuals, families and/or communities in accordance with established privacy principles.

Records relating to indigenous families and communities or which document links between indigenous people and localities are not to be destroyed and should be the subject of consultation with the Tasmanian Archive and Heritage Office.

Native Title

If a native title claim is in progress, all documents relevant to the claim must be identified and preserved until the action and any subsequent actions are completed.

Registration of Destruction

Central to the accountability built into the disposal schedules is the requirement that agencies maintain a *Register of Records destroyed*. It is important to recognise that the formal evidential record of destruction is contained in this registration process. The register is to be made available to the State Archivist (or his nominee) on request.

The register must be clearly identified as the *Register of Records Destroyed* (under Section 20 (2) (b) of the *Archives Act 1983*) and should include the name of the agency. The register can be the same used for registering destructions authorised under other disposal schedules. A sample format indicating the required elements for the register and related procedures are available on the Government Information Strategy Unit website.

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No	Function/Activity	Description	Status	Disposal Action
1	CLIENT MANAGEMENT	<p>Client management is the function of assessing applications for registration of regulated entities or changes to their governance, and registering or de-registering them.</p> <p>Entities include:</p> <ul style="list-style-type: none"> • incorporated associations • trade unions • charities • co-operatives • limited partnerships 		
1.1	Registration and Variations	<p>Activities associated with registering and de-registering statutory entities and recording variations to their registration, such as:</p> <ul style="list-style-type: none"> • changes to how an entity is legally constituted • changes to the leadership of an entity • changes to the internal management of an entity <p>Includes maintaining registers or lists of registered entities.</p>		

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No	Function/Activity	Description	Status	Disposal Action
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CLIENT MANAGEMENT - Registration and Variations

		See COMPLIANCE - Winding Up for activities around dealing with assets, property and liabilities prior to de-registration.		
1.1.1		Lists or registers of registered entities, which are held in corporate systems (in any format, such as databases, Word documents, Excel spreadsheets or any other) or in hard copy.	Permanent	Retain as State Archives
1.1.2		<p>Records relating to the registration of an entity and ongoing management of the registration. These may include:</p> <ul style="list-style-type: none"> • correspondence • financial statements • annual returns • certificates of registration, incorporation or establishment • constitution documents • records of de-registration such as correspondence • annual reports • rules • resolutions 	Temporary	Destroy 15 years after organisation deregistered or lodgement of most recent annual return.

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No	Function/Activity	Description	Status	Disposal Action
<i>CLIENT MANAGEMENT - Registration and Variations</i>				
1.1.3		<p>Records documenting enquiries and correspondence relating to variations to the registration and subsequent decisions. Variations may include:</p> <ul style="list-style-type: none"> • how an entity is legally constituted • an entity's financial affairs • the internal management of an entity • compliance with legal or administrative requirements • issuing a statutory exemption to cooperatives <p>Includes correspondence, written decisions, notices or directions.</p>	Temporary	Destroy 15 years after organisation deregistered or lodgement of most recent annual return.
2	COMPLIANCE	<p>Compliance is the function of investigating and resolving apparent statutory breaches by auditing, prosecuting and 'winding up' an organisation, as well as ensuring that routine requirements are met, for example, that annual returns are submitted when required.</p> <p>Organisations may include:</p> <ul style="list-style-type: none"> • incorporated associations • trade unions • charities 		

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No	Function/Activity	Description	Status	Disposal Action
<i>COMPLIANCE - Audit</i>				
		<ul style="list-style-type: none"> • co-operatives • limited partnerships 		
2.1	Audit	The activities associated with auditing organisations. Includes issuing any associated approvals or exemptions and appointing an auditor.		
2.1.1		Records associated with a mandatory audit of the financial records of an organisation. Includes: <ul style="list-style-type: none"> • correspondence • auditor's report 	Temporary	Destroy 15 years after action completed.
2.2	Investigations	The activities associated with investigating an organisation for an alleged or apparent breach. Includes: <ul style="list-style-type: none"> • collecting evidence • allocating costs for legal proceedings • calling a special meeting of a co-operative 		
2.2.1		Records of investigation into a co-operative or subsidiary. Includes: <ul style="list-style-type: none"> • correspondence • evidence collected 	Temporary	Destroy 15 years after organisation deregistered or lodgement of most recent annual return.

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No	Function/Activity	Description	Status	Disposal Action
<i>COMPLIANCE - Investigations</i>				
		<ul style="list-style-type: none"> • investigation report and recommendations • allocation of costs • requirements for subsequent compliance action • notes from a special meeting of the co-operative 		
2.2.2		Records of an investigation into an organisation other than a co-operative. Includes: <ul style="list-style-type: none"> • correspondence • evidence collected • interview records • investigation report and recommendations • compliance action required 	Temporary	Destroy 15 years after organisation deregistered or lodgement of most recent annual return.
2.3	Prosecution	The activities associated with prosecuting an alleged statutory breach. <i>See DA2491 Consumer Affairs and Fair Trading Schedule for compliance and enforcement</i>		
2.3.1		Records relating to a prosecution for an alleged statutory breach. Includes:	Temporary	Destroy 7 years after action completed.

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No	Function/Activity	Description	Status	Disposal Action
<i>COMPLIANCE - Winding up</i>				
		<ul style="list-style-type: none"> • correspondence with the office of the Director of Public Prosecutions • the prosecution file • transcript of court proceedings • the court judgement 		
2.4	Winding up	<p>The activities associated with 'winding up' an organisation. Includes:</p> <ul style="list-style-type: none"> • appointing liquidators • setting fees payable <p>See CLIENT MANAGEMENT - Registration and Variations for de-registration.</p>		
2.4.1		Records associated with the mandatory 'winding up' of an organisation including correspondence.	Temporary	Destroy 15 years after organisation deregistered or lodgement of most recent annual return.
2.5	Routine compliance	The activities associated with routine compliance such as notifications and mandatory lodgement of documents.		
2.5.1		Records relating to ensuring routine compliance, for example, the provision of annual returns or financial statements. Records may include:	Temporary	Destroy 2 years after superseded.

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COMPLIANCE - Routine compliance

		<ul style="list-style-type: none">• reminder notices• show cause notices• correspondence		
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