

Office of the
State Archivist

DISPOSAL SCHEDULE FOR THE FUNCTIONAL RECORDS OF THE MAGISTRATES COURT OF TASMANIA

Disposal Authorisation DS40

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Introduction

ARCHIVES LEGISLATION

The *Archives Act 1983* (Tas) 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 Archives.

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 Archives 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 Tasmanian Archives 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.

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 Office of the State Archivist, by email osa@education.tas.gov.au, or by phoning 03 6165 5581.

Authorisation

Under Section 20 (2) (b) of the *Archives Act 1983* (Tas), 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

This is a living document and we will make minor changes as needed. If you notice anything that needs updating, please let us know.

Version	Date	Comments
5	6/12/2019	Template change (OSA)
4	26/09/2019	Changes were made so that complaint files relating to minor offences, such as parking fines, were not kept as permanent records. Sections 1.1.3 and 1.1.4 have been amended Section 1.1.15 has been added
3	1/7/2015	Template change (TAHO)
2	13/5/2011	Amendments to all sections
1	2003	Initial release

Interpretation

DEFINITIONS

Permanent records are those that will be transferred to the Tasmanian Archives to be retained as State Archives.

The *Archives Act 1983* (Tas) 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 the Magistrates Court of Tasmania.

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 Archives' procedures for unscheduled records.

PRESERVATION OF RECORDS

Section 10 (1) (a) of the *Archives Act 1983* (Tas) 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 Archives 25 years after the date of creation. Agencies may make application to the Tasmanian Archives for earlier transfer of particular groups of records, and the Tasmanian Archives may also initiate an earlier transfer arrangement.

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

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* (Tas) 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

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 Archives.

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* (Tas)) 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 [website](#) of the Office of the State Archivist.

No	Function/Activity	Description	Status	Disposal Action
I	CRIMINAL AND GENERAL JURISDICTION			
I.1	Court of Petty Sessions			
I.1.1		Register of criminal and general cases	Permanent	Retain as State Archives
I.1.2		Daily summaries of criminal and general cases	Temporary	Destroy 5 years after action completed
I.1.3		<p>Complaints, applications and proceeding sheets which have originated from Police services, including Tasmania Police and Australian Federal Police. Excluding records which have originated from other organisations (See 01.01.15 for these) including:</p> <ul style="list-style-type: none"> • Local Government • Motor Vehicle Registry • Australian Tax Office <p>See 1.1.4 for additional case documentation See 1.1.15 for matters which originate from organisations other than Police</p>	Permanent	Retain as State Archives
I.1.4		<p>Additional records relating to complaints including warrants, summonses and other ancillary documentation.</p> <p>See 1.1.3 for complaints applications and proceedings sheets which originated from Police</p> <p>See 1.1.15 from complaints, applications and proceeding sheets which originated from organisations other than Police</p>	Temporary	Destroy 1 month after action completed

No	Function/Activity	Description	Status	Disposal Action
1.1.5		Documents in cases where the defendant did not appear, including record of service of summons and service of bail notice.	Temporary	Destroy 50 years after hearing date unless subsequently dealt with under 01.01.03 or 01.01.04
1.1.6		Calendars of cases scheduled for hearing	Temporary	Destroy 2 years after action completed
1.1.7		Register of sitting times of Magistrates and Justices of the Peace	Temporary	Destroy 2 years after last entry
1.1.8		Case notes of Magistrates and Justices of the Peace	Temporary	Destroy 3 years after action completed
1.1.9		Exhibits for matters not under appeal	Temporary Temporary	Transfer to owner once the matter has been completed and appeal period passed. Destroy if unable to locate owner
1.1.10		Exhibits for matters under appeal	Temporary	Transfer to the Supreme Court when the Appeal is lodged
1.1.11		Exhibit sheets recording material held by the Court	Temporary	Destroy 2 years after action completed
1.1.12		Audio-tape recordings of proceedings of cases which are not appealed	Temporary	Destroy 3 months after action completed (or clear and re-use)

No	Function/Activity	Description	Status	Disposal Action
1.1.13		Audio-tape recordings of proceedings of cases which are appealed	Temporary	Destroy after advised by the Supreme Court that the appeal process has been completed
1.1.14		Routine enquiries and provision of routine information relating to Court of Petty Session matters	Temporary	Destroy 2 years after action completed
1.1.15		<p>Complaints, applications and proceeding sheets which have originated from organisations other than Police services, including:</p> <ul style="list-style-type: none"> • Local Government • Motor Vehicle Registry • Australian Tax Office <p><i>See 1.1.3 for complaints, applications and proceedings sheets which have originated from Police services</i></p> <p><i>See the Disposal Schedule for the Functional Records of the Monetary Penalty Enforcement Service (DA2122) for records which have been forwarded to this Service.</i></p>	Temporary	Destroy 7 years after action completed
2	CIVIL DIVISION	Incorporates the Magistrates Court (Civil Division), Anti-Discrimination Tribunal, Administrative Appeals Division, Motor Accidents Compensation Tribunal and the Mining Tribunal.		
2.1	Civil claims, Minor Civil Claims and Applications	Matters commenced by the filing of a claim or application. Includes matters in relation to the seeking of damages from other parties or for the recovery of debts or goods.		

No	Function/Activity	Description	Status	Disposal Action
		Records relating to matters commenced by claim or application as defined in the <i>Magistrates Court (Civil Division) Rules 1998</i> may include: <ul style="list-style-type: none"> • Claim • Defence • Applications to Extend Time • Proofs of Evidence • Offers of Compromise • Judgement • Warrants • Garnishees • Oral Examinations • Bill of Costs • Certificate of Taxation • Correspondence • Memoranda 		
2.1.1		Registrars index detailing action number, claimant/applicant and defendant/respondent details, nature of matter.	Permanent	Retain as State Archives
2.1.2		Records of cases for matters commenced by claim or application selected by a Magistrate or Registrar to be exceptional or as setting a precedent.	Permanent	Retain as State Archives
2.1.3		Records of cases for matters commenced by claim or application that are not selected as exceptional or as setting a precedent.	Temporary	Destroy 15 years after last action

No	Function/Activity	Description	Status	Disposal Action
2.1.4		Calendars of schedule and sitting time for Magistrates	Temporary	Destroy 2 years after sitting date
2.1.5		Magistrates case notes	Temporary	Destroy 3 years after date of case note
2.1.6		Exhibits	Temporary	Transfer to owner OR destroy at the end of the appeal period or at the conclusion of the appeal
2.1.7		Audio recordings of cases	Temporary	Destroy 3 months after case heard or when advised by the Supreme Court that the appeal process has been completed (or clear and re-use)
2.2	Anti-Discrimination Tribunal	<p>Matters referred to the Tribunal for the conduct of an inquiry into a complaint or the review of a decision of the Anti-Discrimination Commissioner relating to exemptions, withdrawals, rejections and dismissals of complaints.</p> <p>Records relating to matters commenced in the Anti-Discrimination Tribunal may include:</p> <ul style="list-style-type: none"> • Applications • Commissioners determination • Proceeding Sheet • Directions • Orders 		

No	Function/Activity	Description	Status	Disposal Action
		<ul style="list-style-type: none"> • Witness Statements • Notices • Final Order/Judgment • Deed of Release • Correspondence 		
2.2.1		Registrars index detailing action number, complainant and respondent details, summary of matter	Permanent	Retain as State Archives
2.2.2		Records of cases selected by the Chairperson or Registrar to be exceptional or of significant public interest	Permanent	Retain as State Archives
2.2.3		Case records of individual matters not selected as exceptional or of significant public interest	Temporary	Destroy 15 years after last action
2.2.4		Calendars of schedule and sitting time for Members	Temporary	Destroy 2 years after sitting date
2.2.5		Members case notes	Temporary	Destroy 3 years after date of case notes
2.2.6		Exhibits	Temporary	Transfer to owner OR destroy at the end of the appeal period or at the conclusion of the appeal
2.2.7		Audio recording of proceedings of cases	Temporary	Destroy 3 months after case heard or when advised by the Supreme Court that the appeal process has been

No	Function/Activity	Description	Status	Disposal Action
				completed (or clear and re-use)
2.3	Administrative Appeals Division	<p>Matters referred to the Magistrates Court for the review of an administrative decision or class of decisions made by a decision maker. Records relating to matters commenced in the Administrative Appeals Division may include:</p> <ul style="list-style-type: none"> • Applications • Determination appealed against • Proceeding Sheet • Directions • Orders • Witness Statements • Notices • Final order/Judgment • Correspondence 		
2.3.1		Registrars Index detailing action number, applicant and respondent details, nature of matter.	Permanent	Retain as State Archives
2.3.2		Records of cases selected by a Magistrate or Registrar to be exceptional or as setting a precedent.	Permanent	Retain as State Archives
2.3.3		Case records of individual matters not selected as exceptional or as setting a precedent.	Temporary	Destroy 15 years after last action
2.3.4		Calendars of schedule and sitting time for Magistrates.	Temporary	Destroy 2 years after sitting date

No	Function/Activity	Description	Status	Disposal Action
2.3.5		Magistrates' case notes.	Temporary	Destroy 3 years after date of case note
2.3.6		Exhibits	Temporary	Transfer to owner OR destroy at the end of the appeal period or at the conclusion of the appeal
2.3.7		Audio recordings of proceedings of cases.	Temporary	Destroy 3 months after case heard or when advised by the Supreme Court that the appeal process has been completed (or clean and re-use)
2.4	Motor Accidents Compensation Tribunal	<p>Referral of matters for determination from the Motor Accidents Insurance Board. Records relating to matters commenced in the Motor Accidents Compensation Tribunal may include:</p> <ul style="list-style-type: none"> • Original Determination • Letter or Notice of Objection to Determination • Final Determination • Consent Orders • Record of Proceedings • Correspondence • Notices 		

No	Function/Activity	Description	Status	Disposal Action
2.4.1		Registrars index detailing action number, applicant and respondent details, nature of matter.	Permanent	Retain as State Archives
2.4.2		Records of cases for matters selected by a Magistrate or Registrar to be exceptional or as setting a precedent.	Permanent	Retain as State Archives
2.4.3		Case records of individual matters not selected as exceptional or as setting a precedent.	Temporary	Destroy 15 years after last action
2.4.4		Calendars of schedule and sitting time for Magistrates.	Temporary	Destroy 2 years after sitting date
2.4.5		Magistrates' case notes	Temporary	Destroy 3 years after date of case not
2.4.6		Exhibits	Temporary	Transfer to owner OR destroy at the end of the appeal period or at the conclusion of the appeal.
2.4.7		Audio recordings of proceedings of cases.	Temporary	Destroy 3 months after case heard or when advised by the Supreme Court that the appeal process has been completed (or clear and re-use)
2.5	Mining Tribunal	Referral of matters for determination from the Registrar of Mines relating to mining and exploration. Records relating to matters commenced in the Mining Tribunal may include: <ul style="list-style-type: none"> • Applications 		

No	Function/Activity	Description	Status	Disposal Action
		<ul style="list-style-type: none"> • Original Determination of Mining Registrar • Letter or Notice of Objection to Determination • Record of Proceedings • Notices • Consent Orders • Final Determination • Correspondence 		
2.5.1		Registrars index detailing action number, applicant and respondent details, nature of matter.	Permanent	Retain as State Archives
2.5.2		Records of cases for matters selected by a Magistrate or Registrar to be exceptional or as setting a precedent.	Permanent	Retain as State Archives
2.5.3		Case records of individual matters not selected as exception or as setting a precedent.	Temporary	Destroy 15 years after last action
2.5.4		Calendars of schedule and sitting time for Magistrates.	Temporary	Destroy 2 years after sitting date
2.5.5		Exhibits	Temporary	Transfer to owner OR destroy at the end of the appeal period or at the conclusion of the appeal
2.5.6		Audio recordings of proceedings of cases	Temporary	Destroy 3 months after case heard or when advised by the Supreme Court that the appeal process has been

No	Function/Activity	Description	Status	Disposal Action
				completed (or clear and re-use)
3	CORONIAL INQUIRIES			
3.1	Coronial Inquiries			
3.1.1		Register of Inquests and investigations (formerly Preliminary Inquiries) into all matters reported to the Coroner.	Permanent	Retain as State Archives
3.1.2		Records of Inquests and Investigations (formerly Preliminary Inquiries) heard by the Coroner	Permanent	Retain as State Archives
3.1.3		Statistics compiled by the Coroner's Office	Permanent	Retain as State Archives
3.1.4		Exhibits held by the Coroner as evidence relating to Coronial inquiries.	Temporary	Transfer to owner once the matter has been completed OR destroy if unable to locate owner
3.1.5		Visual and Audio recordings of proceedings of hearings before the Coroner which have been transcribed.	Temporary	Destroy 1 year after the transcription (or clear and re-use)
3.1.6		Visual and Audio-tape recordings of proceedings of hearings before the Coroner which have not been transcribed.	Temporary	Destroy 7 years after action completed
3.1.7		Routine enquiries and provision of routine information relating to Coronial matters.	Temporary	Destroy 2 years after action completed

No	Function/Activity	Description	Status	Disposal Action
4	COMMERCIAL AND INQUIRY AGENTS REGISTRATION			
4.1	Commercial and Inquiry Agents Registration			
4.1.1		Register of agents approved under the <i>Commercial and Inquiry Agents Act 1974</i> .	Permanent	Retain as State Archives
4.1.2		Notice that a Magistrate has approved an application for registration under the <i>Commercial and Inquiry Agents Act 1974</i> . <i>See 1.1.3 and 1.1.5 for applications and associated papers</i>	Temporary	Destroy 5 years after application approve
4.1.3		Routine enquiries and provision of routine information relating to registration of Commercial and Inquiry Agents	Temporary	Destroy 2 years after action completed