

Australian Capital Territory

Territory Records (Records Disposal Schedule – ACT Director of Public Prosecutions Records) Approval 2011 (No 1)

Notifiable instrument NI2011—89

made under the

Territory Records Act 2002, s 19 (Approval of schedules for the disposal of records)

1. Name of Instrument

This instrument is the Territory Records (Records Disposal Schedule – ACT Director of Public Prosecutions Records) Approval 2011 (No 1)

2. Approval

I approve the Records Disposal Schedule – ACT Director of Public Prosecutions Records.

3. Commencement

This instrument commences on the day after notification.

4. Revocation

I revoke Notifiable Instrument NI2008-60 notified 6 March 2008.

David Wardle
Director of Territory Records
28 February 2011



Records Disposal Schedule

ACT Director of Public Prosecutions Records

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INTRODUCTION

The *Records Disposal Schedule - ACT Director of Public Prosecutions Records* is the official authority for the disposal of records relating to ACT Director of Public Prosecutions Records.

It is one of a series of Records Disposal Schedules authorised by the Director of Territory Records in accordance with the provisions of the *Territory Records Act 2002*. It is used in conjunction with the *Territory Administrative Records Disposal Schedules (TARDiS)*.

PURPOSE

The purpose of this Records Disposal Schedule is to provide for the authorised disposal of ACT Director of Public Prosecutions records created or maintained by ACT Government Agencies.

SCOPE

This Records Disposal Schedule applies to records created or maintained by ACT Government Agencies. It applies to records in any format, including electronic records.

AUTHORITY

The Director of Territory Records, in consultation with stakeholders and the Territory Records Advisory Council, has approved this Records Disposal Schedule for use. The schedule does not take effect until it has been incorporated into an agency's Records Management Program that has been signed off by the Principal Officer of the agency.

Even so, officers using this Records Disposal Schedule should apply it with caution. They should be aware that the authorisations for disposal are given in terms of the *Territory Records Act 2002* only. Officers must not dispose of records in contravention of this Records Disposal Schedule or other requirements.

This Records Disposal Schedule will remain in force until a new schedule supersedes it or the Director of Territory Records withdraws it from use.

STRUCTURE AND RELATIONSHIP TO THE TERRITORY VERSION OF KEYWORD AAA

A Records Disposal Schedule generally specifies retention periods. That is, how long records are to be retained by the agency before being destroyed or retained as Territory Archives.

Retention periods set down in this schedule are minimum periods only and an agency may keep records for a longer period if considered necessary for business requirements. Reasons for longer retention could include legal requirements,

administrative need or agency directives. **An agency must not dispose of any records where it is aware of possible legal action for which the records may be required as evidence or if there is a current records disposal freeze in effect.**

The *Records Disposal Schedule - ACT Director of Public Prosecutions Records* has a hierarchical structure that reflects its arrangements according to functions and activities, rather than by subject, and this also reflects a close relationship to the Territory Version of Keyword AAA. The Records Disposal Schedule is designed to be applicable to all ACT Director of Public Prosecutions records regardless of titling conventions used, so that records, which have not been titled using the terminology represented by this Records Disposal Schedule, may still be sentenced with relative ease.

Whole-of-Government Thesaurus

The Whole-of-Government Thesaurus is a controlled vocabulary of terms designed for use in the classifying, titling and indexing of records on creation.

The Whole-of-Government Thesaurus has been developed on the basis of the Territory Version of Keyword AAA (TVKAAA) (2010), a thesaurus incorporating 16 common Functions. All other Functions within the Whole-of-Government Thesaurus are considered Functions performed by the ACT Government and have been included following consultation with agencies and after consideration by the Territory Records Office (TRO) via a formal approval process.

The Whole-of-Government Thesaurus is mandated by the TRO for use by all ACT Government agencies as part of their classifying and titling of paper and electronic records. See also *Records Advice No.28 Functional directories on shared drives*.

The disposal actions listed in this Records Disposal Schedule were determined through the process of appraisal in accordance with *Territory Records Office Standard for Records Management No.2 - Appraisal*. Appraisal is based upon the same type of analysis of business activity employed in the classification scheme used in the Whole-of-Government Thesaurus. Essentially, appraisal involves attaching record retention periods and disposal decisions (and even records creation requirements and rules) to the same classification scheme.

GUIDELINES FOR USE

Coverage of authority

The Records Disposal Schedule - ACT Director of Public Prosecutions Records:

- covers all ACT Director of Public Prosecutions records;
- is intended to be used in conjunction with TARDiS;
- specifies the minimum period records should be kept (retention periods)
- specifies whether, upon the expiry of the retention periods, the records may be destroyed or are required as Territory Archives; and
- is applicable to records created and maintained in any format, including electronic or formats such as microfiche.

Layout of the schedule

This Records Disposal Schedule begins with an introduction incorporating definitions and the business classification scheme. Then each of the functions and activity disposal sets or 'disposal classes' relating to the functions are described. These are followed by a composite list of classes designated 'Retain as Territory Archives'. The functions and activity disposal sets show the following details:

Function.

This is the broad level business function and is displayed in bold capital letters at the top of each page. It is the highest level in the business classification scheme. It is followed by the scope note, which provides definitions of the function and a collective view of the business activities that make that function unique.

Activity.

Activities are the processes or operations that make up the business function. They are set in bold and italics below the function statement. This is the second level of the business classification scheme. The scope of the activity encompasses all of the transactions that take place in relation to the activity. Activities can relate to many functions with the scope notes covering all of these relationships (e.g., the activity 'Policy' is linked to all of the functions). However, each function and activity set represents a unique unit.

Entry No.

This is the disposal class number allocated based on the function and activity set and the class number of the record. The barcode is the same as the Entry No. and may be used in an automated recordkeeping system.

Description of Records.

This is the description of the records documenting the business function, activity and transactions. The descriptions can relate to one record such as a register or a group of records documenting a particular set of transactions.

Disposal Action.

This is the minimum period a record must be kept for and is the trigger event from which the disposal date can be calculated.

FORMAT OF RECORD

This Records Disposal Schedule is applicable to any record that performs the function prescribed, irrespective of format. Records may include:

- cards;
- registers;
- files;
- microfilm;
- COM (computer output microfiche);
- electronic records, including various electronic media, and
- any other formats.

Electronic records

Refers to records created, communicated and maintained by means of electronic equipment. Information could be maintained/stored in a number of ways - on the database (the main database, or a special archives database); on magnetic media; on optical disks; or on separate hardcopy (paper, COM).

Electronic records must be readily accessible for the length of the specified retention period. Routine treatment (such as wiping, updating, alterations or re-recording) does not constitute disposal.

DESTRUCTION OF RECORDS

When the approved disposal date for the destruction of records has been reached, appropriate arrangements for their destruction should be made. It is the responsibility of each agency to ensure that its records are destroyed in a secure and appropriate manner as indicated in the agency Records Management Program.

UPDATING THE RECORDS DISPOSAL SCHEDULE

Records Disposal Schedules are reviewed and updated from time to time. For suggested amendments or alterations to this schedule please contact the Director of Territory Records.

ASSISTANCE IN USING THE RECORDS DISPOSAL SCHEDULE

Agencies requiring any assistance in the interpretation or implementation of any Records Disposal Schedule are encouraged to contact the Director of Territory Records.

RELATED LEGISLATION

The following legislation is related to the records classes covered by this Records Disposal Schedule:

Children and Young Peoples Act 1999

Confiscation of Criminal Assets 2003

Court Procedures Act 2004

Crimes Act 1900

Criminal Code 2002

Director of Public Prosecutions Act 1990

Freedom of Information Act 1999

High Court of Australia Act 1979 (Cwlth)

Territory Records Act 2002

DEFINITIONS

Agency

The Executive, an ACT Court, the Legislative Assembly Secretariat, an administrative unit, a Board of Inquiry, a Judicial or Royal Commission, any other prescribed authority, or an entity declared under the regulations of the *Territory Records Act 2002* to be an agency.

Appraisal

The process of evaluating business activities to:

- determine which records need to be captured;
- determine how long the records need to be kept to meet business needs; and
- meet the requirements of organisational accountability and community expectations.

Business Classification Scheme

A hierarchical scheme for identifying and defining the functions, activities and transactions an agency performs in the conduct of its business, and the relationships between them.

Principal Officer

The Chief Executive of an administrative unit, or its equivalent in other types of agencies.

Records

Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transition of business. This recorded information must be maintained or managed by the agency to provide evidence of their business activities. Records can be in written, electronic or any other form.

Records of an Agency

Records, in writing, electronic or any other form, under the control of an agency or to which it is entitled to control, kept as a record of its activities, whether it was created or received by the agency.

Records Disposal Schedule

A document approved by the Director of Territory Records, which sets out the types of records an agency must make and how long they must be kept.

Records Management Program

A document that complies with Section 16 of the *Territory Records Act 2002* by setting out the means by which an agency will manage its records, and is approved by the agency's Principal Officer.

Recordkeeping Systems

Information systems that capture, maintain and provide access to records over time. While the term is often associated with computer software, Recordkeeping Systems also encompass policies, procedures, practices and resources that are applied within an agency to ensure that full and accurate records of business activity are made and kept.

Scope Note

An explanation of terms used in describing the records and the context in which they were made and used.

Sentencing

The process of applying appraisal decisions to individual records by determining the part of a Records Disposal Schedule that applies to the record and assigning a retention period consistent with that part.

Territory Archives

Records preserved for the benefit of present and future generations.

BUSINESS CLASSIFICATION SCHEME

ACT DIRECTOR OF PUBLIC PROSECUTIONS

The function provided by the Director of Public Prosecutions in the ACT Supreme Court, the ACT Court of Appeal and the High Court of Australia for the Territory or Territory authorities of indictable and summary offences against Territory law. Also the restraint of and confiscation of assets used in, or derived from, the commission of criminal offences; also the pursuit of civil remedies relating to criminal offences and tax liabilities; and assisting the Coroner at coronial inquests (into deaths) and inquiries (into fires).

ACT Court of Appeal - Appeals

Activities relating to appeals heard in the ACT Court of Appeal in relation to criminal prosecutions.

ACT Supreme Court - Appeals

Activities associated with appeals heard in the ACT Supreme Court in relation to criminal prosecutions.

ACT Supreme Court - Sentencing

The activities associated with sentencing criminal defendants in the ACT Supreme Court.

ACT Supreme Court - Trials

Activities relating to the prosecution of criminal trials in the ACT Supreme Court.

Bail applications

Applications for bail in the ACT Supreme Court.

Breaches of Recognizance

Breaches of recognizance in the ACT Supreme Court.

Case Management

The activity of managing an incident, person, organisation or client on a case basis. Case management incorporates the process of assessment, planning, facilitation and advocacy for options and services to meet an individual's, organisation's or client's needs or outcomes. Includes processing applications; authorisations and approvals; the establishment of a client; developing, implementing and monitoring case plans; the ongoing delivery and provision of services; finalisation of services and reviews of service delivery.

Childrens Court - Prosecutions

The activity of dealing with criminal and traffic charges against persons who are under the age of 18 years.

Confiscation of criminal assets (COCA)

The activities relating proceedings commenced to deprive people of the proceeds of crime and of property used for criminal activity.

Coronial inquests

Activities relating to hearings heard in the ACT Coronial Court in which the Director of Public Prosecutions appears as Counsel assisting the Coroner.

Court Exhibits

A document or object produced and identified in court as evidence

Family Violence Prosecutions

Activities relating to the prosecution of offences classified as Family Violence offences.

High Court of Australia - Appeals

Activities related to appeals heard in the High Court of Australia.

Magistrates Court Proceedings

Activities relating to the prosecution of criminal matters in the ACT Magistrates Court

Ngambra Circle Sentencing Court Records

Records of activities associated with the Ngambra Circle Sentencing Court for Aboriginal and Torres Strait Islander persons who have been charged with and pleaded guilty to an offence that are referred to the Circle Sentencing Court by the Magistrates Court.

Regulatory or Municipal Prosecutions

Activities in relation to the prosecution of offences contained in legislation other than the Crimes Act 1900 and Criminal Code 2002.

Representations (defence solicitors)

Activities relating to representations made by defence solicitors in respect to prosecution of offences of a defendant.

RECORDS DISPOSAL SCHEDULE

Children’s Court - Prosecutions

The activity of dealing with criminal and traffic charges against persons who are under the age of 18 years.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.386.001 ■■■■■■■■■■■■■■■■■■■■	Children’s Court case files	Destroy 10 years after person is 18 years old

Confiscation of criminal assets (COCA)

The activities relating proceedings commenced to deprive people of the proceeds of crime and of property used for criminal activity.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.387.001 ■■■■■■■■■■■■■■■■■■■■	Records relating to the confiscation of criminal assets. Includes: <ul style="list-style-type: none">• order of Magistrates Court and Supreme Court;• affidavit in support of application;• affidavit of service;• application for exclusion order filed by defendant; and• affidavit in support of defendant's application.	Retain as Territory Archives

Coronial inquests

Activities relating to hearings heard in the ACT Coronial Court in which the Director of Public Prosecutions appears as Counsel assisting the Coroner.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.388.001 ■■■■■■■■■■■■■■■■■■■■	Records relating to cases where the Director of Public Prosecutions is requested by the Coroner to assist at an inquest. Includes: <ul style="list-style-type: none">• post mortem results;• life extinct statement;• identification statement;• forensic notes;• crime scene images; and• expert reports.	Retain as Territory Archives

Court Exhibits

A document or object produced and identified in court as evidence

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.389.001 ■■■■■■■■■■■■■■■■■■■■	Audio/video exhibits, or any other media format.	Transfer 6 months after action completed to the Australian Federal Police
027.389.002 ■■■■■■■■■■■■■■■■■■■■	Tape record of interviews.	Transfer 6 months after action completed to the Australian Federal Police
027.389.003 ■■■■■■■■■■■■■■■■■■■■	Physical exhibits.	Transfer 6 months after action completed to the Australian Federal Police

Family Violence Prosecutions

Activities relating to the prosecution of offences classified as Family Violence offences.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.390.001 ■■■■■■■■■■■■■■■■■■■■	Records relating to the prosecution of offences classified as family violence offences. Includes: <ul style="list-style-type: none"> • charges; • statement of facts; • victim impact statements; • compensation schedule; and • - paper exhibits. 	Destroy 10 years after action completed

Representations (defence solicitors)

Activities relating to representations made by defence solicitors in respect to prosecution of offences of a defendant.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
027.394.001 ■■■■■■■■■■■■■■■■■■■■■■	Records relating to representations made by particular defence solicitors in respect to prosecution of particular offences of a particular defendant. Includes: <ul style="list-style-type: none"> • charges; • statement of facts; • paper exhibits; • representation letter from defendant/defence; • registration of drugs/substances seized or acquired; and • statements from Australian Federal Police members. 	Destroy 20 years after action completed

RETAIN AS TERRITORY ARCHIVES

SCHEDULE OF AMENDMENTS – this information is provided for the assistance of users but does not form part of the Notifiable Instrument.

Changes to NI2006-446

Dated

13 December 2006

New Features (Insertions)

FUNCTION	Activity	Entry no.	Description

Enhancements (Changes)

FUNCTION	Activity	Entry no.	Description
ACT DIRECTOR OF PUBLIC PROSECUTIONS		All	<i>omit</i> 175 in all class numbers <i>substitute</i> 027 in all class numbers
ACT DIRECTOR OF PUBLIC PROSECUTIONS	Cases	027.016.001	<i>omit</i> Cases <i>substitute</i> Case Management

Corrections (Deletions)

FUNCTION	Activity	Entry no.	Description