

Territory Records (Records Disposal Schedule – Protection of Records Relevant to Cornwell-type Superannuation Claims) Approval 2016 (No 1)

Notifiable instrument NI2016—378

made under the

Territory Records Act 2002, s 19A (Records disposal schedules—suspension)

1 Name of instrument

This instrument is the Territory Records (Records Disposal Schedule – Protection of Records Relevant to Cornwell-type Superannuation Claims) Approval 2016 (No 1).

2 Commencement

This instrument commences on the day after notification.

3 Approval

I approve the Records Disposal Schedule – Protection of Records Relevant to Cornwell-type Superannuation Claims.

Danielle Wickman
Director of Territory Records
15 July 2016



Records Disposal Schedule

Protection of Records Relevant to Cornwell-type Superannuation Claims

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INTRODUCTION

The *Records Disposal Schedule – Protection of Records Relevant to Cornwell-type Superannuation Claims* is the official authority for the disposal of these ACT Government 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 other Territory records disposal schedules.

Disposal of Territory records is regulated through the approval of Records Disposal Schedules. A Records Disposal Schedule authorises the destruction of some records and identifies others that must be retained as Territory archives, regardless of when those records are created. Records Disposal Schedules also set minimum periods after which other records may be destroyed. Schedules may be applied to existing records held by an agency, or to records created in the future.

Records Disposal Freeze

A records disposal freeze is a suspension of the permissions to destroy records, issued over defined record types. It overrides any specific disposal action available by virtue of another relevant Records Disposal Schedule.

A records disposal freeze is the overriding approval and assurance that nominated records may not be disposed of during the specified period of time.

The Commonwealth Disposal Freeze

On 16 December 2010 pursuant to section 24(2)(b) of the *Commonwealth Archives Act 1983*, the National Archives of Australia imposed a general disposal freeze on selected Commonwealth personnel and other records that may be needed in the processing of claims concerning eligibility to a join a Commonwealth superannuation scheme.

On 15 December 2015 the National Archives of Australia revised and reissued the disposal freeze on these records, and on 23 December 2015 the Commonwealth Minister for Finance wrote to the Chief Minister to ask that similar measures be taken to protect records that may be in the custody of the ACT Government.

The purpose of this disposal freeze is to avoid the risk of losing crucial evidence for the processing of these claims. It aims to ensure the protection of rights and entitlements of the individuals who have presented claims and of the Commonwealth defending or processing those claims.

Duration of the Disposal Freeze

The disposal freeze on records relevant to the processing of claims concerning the eligibility to join a Commonwealth superannuation scheme will be applicable consistent with the National Archives of Australia disposal freeze *Records Related to Cornwell-type Superannuation Claims*.

This disposal freeze is in force until the 31 December 2030. Notification will be provided of any adjustment made to the duration of the disposal freeze.

PURPOSE

The purpose of this Records Disposal Schedule is to suspend the application of all other records disposal schedules where they apply to records created or maintained by ACT Government Agencies that may be of relevance to the Commonwealth Government's ability to manage claims made against it by people who allege they were given the wrong information about their eligibility to join a Commonwealth superannuation scheme.

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 the Territory Records Advisory Council, has approved this Records Disposal Schedule.

Officers using records disposal schedules should be aware that the authorisations for disposal are given in terms of the *Territory Records Act 2002*. Officers must not dispose of records in contravention of this Records Disposal Schedule or other requirements such as when records are required for legal proceedings.

This Records Disposal Schedule will remain in force until 31 December 2030, or until the Director of Territory Records withdraws it from use. Subsequent records disposal schedules do not supersede this Schedule unless this is specifically indicated in the later schedule.

GUIDELINES FOR USE

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. This Schedule acts to suspend any previously authorised retention periods for records that are of a type described in this Schedule.

An agency must take all reasonable steps to ensure that no legal action is contemplated in relation to its records and 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.

Ordinarily, records disposal schedules have a hierarchical structure that reflects government activity in terms of functions and activities, rather than by subject. This also reflects a close relationship to the Territory Whole of Government Thesaurus originally based on the Territory Version of Keyword AAA. Records disposal schedules are designed to be applicable to all ACT Government records regardless of titling conventions used, so that records which have not been titled using the terminology represented by a records disposal schedule may still be sentenced with relative ease.

This Schedule does not follow this usual structure, but instead describes specific categories of records for which destruction is not currently authorised. These categories are based on

particular characteristics of the records or the circumstances in which they may be required, rather than the more usual function and activity hierarchy.

To assist agencies to identify records that may be within the scope of this Schedule, a number of functions and activities defined in other records disposal schedules that may give rise to relevant records are identified below. The number of the Notifiable Instrument in which these functions and activities are defined is also provided.

It is important to note that this list is not exhaustive. The destruction of any record meeting the characteristics described in this Schedule is not currently authorised, regardless of whether it is has been classified using the function and activity descriptors below.

It is also important to note that inclusion of a function or activity descriptor in this list does not mean that destruction of all records classifiable under these descriptors is suspended. This function and activity list is indicative only, and only records having the characteristics set out in the disposal classes of this Schedule are required to be retained beyond their usual retention period. Records of the functions and activities below which do not meet the specific characteristics of this Schedule may be disposed of as authorised by the relevant existing records disposal schedules.

Coverage of Schedule

The *Records Disposal Schedule – Protection of Records Relevant to Cornwell-type Superannuation Claims*:

- covers all ACT Government records;
- is intended to be used in conjunction with other Territory records disposal schedules;
- suspends the application of any other authorised records disposal schedule for records that meet the characteristics set out in this Schedule;
- is applicable to all relevant records regardless of when they were created; and
- is applicable to records created and maintained in any format, including electronic records or those in formats such as microfiche.

Layout of the schedule

This Records Disposal Schedule begins with an introduction incorporating definitions of the terms used.

Entry No.

This is the disposal class number allocated by the Territory Records Office. 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 may describe a trigger event from which the disposal date can be calculated.

FORMAT OF RECORDS

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.

Records must continue to be readily accessible for the length of the specified retention period.

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.

FUNCTIONS AND ACTIVITIES THAT MAY GIVE RISE TO RECORDS COVERED BY THIS SCHEDULE

NI2012–183

Compensation

| | | | |
|-----------------|--------|-----------|---------------|
| Acquisition | Advice | Audit | Authorisation |
| Case Management | Claims | Insurance | Payments |

NI2009–10

Corporate Governance

| | | | |
|---------------|--------|-----------------------|------------------------|
| Authorisation | Boards | Members' remuneration | Professional Insurance |
|---------------|--------|-----------------------|------------------------|

NI2009–437

Establishment

| | | | |
|------------|------------|---------------|------------|
| Advice | Audit | Authorisation | Committees |
| Evaluation | Meetings | Planning | Policy |
| Procedures | Reporting | Restructuring | Reviewing |
| Vacancies | Variations | | |

NI2011–482

Financial Management

| | | | |
|------------|----------------------|---------------------|------------|
| Accounting | Advice | Agreements | Allocation |
| Audit | Authorisation | Compliance | Enquiries |
| Evaluation | Financial Statements | Payments | Planning |
| Policy | Procedures | Reporting | Reviewing |
| Salaries | Standards | Treasury Management | |

NI2006–256

Long Service Leave Management

| | |
|-------|--------------|
| Cases | Registration |
|-------|--------------|

NI2007–311

Milk Vending

| | |
|------------|-----------------------|
| Committees | Members' remuneration |
|------------|-----------------------|

| NI2015–358 Personnel | | | |
|---|------------------------------|---------------------------|------------------------|
| Accidents | Addresses (presentations) | Advice | Agreements |
| Audit | Authorisation | Claims | Committees |
| Compliance | Contracting out | Counselling | Customer Service |
| Discipline | Employment Conditions | Evaluation | Grievances |
| Infringements | Insurance | Leave | Marketing |
| Meetings | Moving | Performance Management | Planning |
| Policy | Procedures | Recruitment | Rehabilitation |
| Reporting | Representatives | Reviewing | Reviews (decisions) |
| Salaries | Separations | Suggestions | Training |
| NI2006–29 Public Service Management | | | |
| Advice | Agreements | Committees | Contracting out |
| Evaluation | Meetings | Planning | Policy |
| Procedures | Reporting | Representatives | Research |
| Reviewing | Tendering | | |
| NI206–29 Remuneration Administration | | | |
| Planning | Policy | Procedures | |
| NI2015–364 Transfer of Custody and Ownership of ACTTAB Ltd Records | | | |

Transfer of Custody of Ownership – ACTTAB Records

RELATED LEGISLATION

The following legislation may be related to the record classes covered by this Records Disposal Schedule:

ACT Self-Government Act 1988
ACT Civil and Administrative Tribunal Act 2008
ACTEW/AGL Partnership Facilitation Act 2000
Administrative Decisions (Judicial Review) Act 1989
Auditor-General Act 1996
Canberra Institute of Technology Act 1987
Court Procedures Act 2004
Cultural Facilities Corporation Act 1997
Discrimination Act 1991
Electronic Transactions Act 2001
Evidence Act 1971
Evidence (Miscellaneous Provisions) Act 1991
Financial Institutions Duty Act 1987
Financial Management Act 1996
Freedom of Information Act 1989
Health Records (Privacy and Access) Act 1997
High Court of Australia Act 1979 (Cwth)
Information Privacy Act 2014
Insurance Authority Act 2005
Insurance Levy Act 1998
Legal Aid Act 1977
Legislation Act 2001
Limitation Act 1985
Long Service Leave (Portable Schemes) Act 2009
Long Service Leave Act 1976
Payroll Tax Act 1987
Perpetuities and Accumulations Act 1985
Powers of Attorney Act 2006
Privacy Act 1988 (Cwth)
Public Sector Management Act 1994
Public Service Act 1999 (Cwth)
Remuneration Act 1995
Statutory Declarations Act 1969 (Cwth)
Superannuation (Legislative Assembly Members) Act 1991
Territory-owned Corporations Act 1990
Territory Superannuation Provision Protection Act 2000
Taxation (Government Business Enterprises) Act 2003
Territory Records Act 2002
University of Canberra Act 1989
Wills Act 1968
Work Health and Safety Act 2011
Workers Compensation Act 1951
Workers Compensation Regulation 2002
Workplace Privacy Act 2011

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.

Disposal

A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems, the migration or transmission of records between recordkeeping systems, and the transfer of custody or ownership of records.

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 transaction 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.

RECORDS DISPOSAL SCHEDULE

