

Australian Capital Territory

# **Territory Records (Records Disposal Schedule – ACT Government Solicitor Records) Approval 2006 (No 1)**

**Notifiable instrument NI2006—344**

made under the

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

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## **1. Name of Instrument**

This instrument is the Territory Records (Records Disposal Schedule – ACT Government Solicitor Records) Approval 2006 (No 1)

## **2. Approval**

I approve the Records Disposal Schedule – ACT Government Solicitor Records.

## **3. Commencement**

This instrument commences on the day after notification.

David Wardle  
Director of Territory Records  
21 September 2006



*Records Disposal Schedule  
ACT Government Solicitor Records*

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## **INTRODUCTION**

The *Records Disposal Schedule – ACT Government Solicitor Records* is the official authority for the disposal of records relating to the government solicitor in the ACT.

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 Schedule (TARDiS)*.

## **PURPOSE**

The purpose of this Records Disposal Schedule is to provide for the authorised disposal of records relating government solicitor records created or maintained by ACT Government agencies.

## **SCOPE**

This Records Disposal Schedule applies to all ACT Government agencies as defined in the *Territory Records Act 2002*.

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 for use. The schedule does not take effect until it has been incorporated into an agency's Records Management Program that has been replaced by the Principal Officer of the agency.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.**

The *Records Disposal Schedule – ACT Government Solicitor 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 Government Solicitor 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.

### ***Territory Version of Keyword AAA***

The Territory Version of Keyword AAA is the general administrative thesaurus produced by the Territory Records Office. The structure and terms used in this Records Disposal Schedule are closely related to those used in the Territory Version of Keyword AAA, which is based on functional analysis of business activity. This methodology (i.e., the analysis of business activity) produces a hierarchical model of an organisation's business activity. The hierarchical model also represents a classification scheme for the records that document functions, activities and transactions.

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 Territory Version of Keyword AAA. 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 Government Solicitor Records*:

- covers all ACT Government Solicitor records divided relating to the function of ACT GOVERNMENT SOLICITOR LEGAL SERVICES;
- 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;
- microfiche;
- 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:

*Freedom of Information Act 1999*

*Government Solicitor Act 1989*

*Law Officer Act 1992*

*Limitation Act 1985*

*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 GOVERNMENT SOLICITOR LEGAL SERVICES***

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.

***Conveyancing Services***

The activities associated with the purchase and sale of properties on behalf of the Territory.

***Debt Recovery Services***

The activities associated with the provision and management of debt recovery services.

***Legal Advice***

The activities associated with providing legal advice.

***Legal Agreements***

The activities associated with preparing agreements/contracts and settling those agreements/contracts. Includes contracts, memorandum of understanding (MOU), deeds, leases, licences and mortgages.

***Legal Representation***

The activities associated with providing legal representation.


## **RECORDS DISPOSAL SCHEDULE**

***ACT GOVERNMENT SOLICITOR LEGAL SERVICES***

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.



***Conveyancing Services***

The activities associated with the purchase and sale of properties on behalf of the Territory.

<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.1.1 	Records relating to the purchase and sale of property in the Australian Capital Territory.	Destroy 7 years after last action

***Debt Recovery Services***

The activities associated with the provision and management of debt recovery services.





<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.2.1 	Records relating to bankruptcy, debt recovery and winding up matters where the matter has been written-off without finalising the matter.	Destroy 7 years after last action
1.2.2 	Records relating to bankruptcy, debt recovery and winding up matters where process completed.	Destroy 2 years after last action

**ACT GOVERNMENT SOLICITOR LEGAL SERVICES**

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.

**Legal Advice**

The activities associated with providing legal advice.






<b>Entry</b>	<b>Description of Records</b>	<b>Disposal Action</b>
1.3.1 	Records relating to matters which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives
1.3.2 	Records relating to matters involving people with a legal disability.	Retain as Territory Archives
1.3.3 	Records relating to matter involving children (other than children with a legal disability)	Destroy 7 years after the youngest child involved in the matter turns 18
1.3.4 	Records relating to routine matters that are not precedent setting in nature, of major public interest or of other significance.	Destroy 7 years after last action.

***ACT GOVERNMENT SOLICITOR LEGAL SERVICES***

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.

***Legal Agreements***

The activities associated with preparing agreements/contracts and settling those agreements/contracts. Includes contracts, memorandum of understanding (MOU), deeds, leases, licences and mortgages.






<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.4.1 	Records relating to agreements which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives
1.4.2 	Records relating to deeds.	Destroy 12 years after expiry of the deed.
1.4.3 	Records relating to mortgages.	Destroy 12 years after the mortgage has been discharged.
1.4.4 	Records relating to routine agreements that are not precedent setting in nature, of major public interest or other significance.	Destroy 7 years after last action.
1.4.5 	Records relating to leases or licences.	Destroy 7 years after expiry of the lease or licence.

***ACT GOVERNMENT SOLICITOR LEGAL SERVICES***

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.

***Legal Representation***

The activities associated with providing legal representation.

<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.5.1 	Records relating to matters which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives
1.5.2 	Records relating to matters involving people with a legal disability.	Retain as Territory Archives
1.5.3 	Records relating to matters where judgment has been entered but not satisfied.	Destroy 12 years after last action
1.5.4 	Records relating to routine matters that are not precedent setting, of major public interest or of other significance.	Destroy 7 years after last action
1.5.5 	Records relating to matters involving children (other than children with a legal disability).	Destroy 7 years after the youngest child involved in the matter turns 18.



## **CLASSES FOR RETENTION AS TERRITORY ARCHIVES**

**ACT GOVERNMENT SOLICITOR LEGAL SERVICES**

The function of providing legal advice and legal representation to and on behalf of ACT Government agencies, ACT Government ministers and any other body or individual for whom the Government Solicitor may act.

***Legal Advice***

The activities associated with providing legal advice.

<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.3.1 ██████████████████	Records relating to matters which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives
1.3.2 ██████████████████	Records relating to matters involving people with a legal disability.	Retain as Territory Archives

***Legal Agreements***

The activities associated with preparing agreements/contracts and settling those agreements/contracts. Includes contracts, memorandum of understanding (MOU), deeds, leases, licences and mortgages.

<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.4.1 ██████████████████	Records relating to agreements which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives

***Legal Representation***

The activities associated with providing legal representation.

<b><i>Entry</i></b>	<b><i>Description of Records</i></b>	<b><i>Disposal Action</i></b>
1.5.1 ██████████████████	Records relating to matters which are precedent setting in nature, of major public interest or of significance to the functions, jurisdiction and administrative powers of the Executive, Legislature, Judiciary, the Territory or its agencies.	Retain as Territory Archives
1.5.2 ██████████████████	Records relating to matters involving people with a legal disability.	Retain as Territory Archives