

Australian Capital Territory

Territory Records (Records Disposal Schedule – Transfer of Custody and Ownership Personal Security Files) Approval 2011 (No 1)

Notifiable instrument NI2011—169

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 – Transfer of Custody and Ownership Personal Security Files) Approval 2011 (No 1)

2. Approval

I approve the Records Disposal Schedule – Transfer of Custody and Ownership Personal Security Files.

3. Commencement

This instrument commences on the day after notification.

David Wardle
Director of Territory Records
21 March 2011



Records Disposal Schedule

Transfer of Custody and Ownership Personal Security Files

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INTRODUCTION

In 2007 a memorandum of understanding (MOU) was signed between the Commonwealth and all States and Territories for the protection of national security information. One of the agreed terms in the arrangement is that the parties will apply the minimum standards of the Australian Government Protective Security Manual (PSM).

Under the PSM, agencies should keep Personal Security Files (PSF's) for all employees and contracted service providers with a security clearance and some uncleared people. The PSM also notes that, subject to certain limitations, PSF's are to be portable between agencies within the same jurisdiction. The MOU and the extension of the PSM to apply to State and Territory agencies allows the PSF's to be portable between agencies of different jurisdictions.

PSF's raised by Territory agencies are Territory records and are subject to the *Territory Records Act 2002*. Section 23 (1) (b) of the *Territory Records Act 2002* prohibits the transfer of custody or ownership of Territory records. This schedule gives Territory agencies permission to transfer Territory PSF's to agencies in other jurisdictions.

PSF's that remain the property of Territory agencies are to be retained in accordance with the PSM. Destruction of PSF's, when eligible, is authorised under the *Territory Administrative Records Disposal Schedules (TARDiS) PERSONNEL - Security*.

The *Records Disposal Schedule - Transfer of Custody and Ownership - Personal Security Files* is the official authority for the transfer of records relating to PSF's.

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 transfer of PSF's created or maintained by ACT Government Agencies to agencies in other jurisdictions.

SCOPE

This Records Disposal Schedule applies only to those Territory PSF's, including individual documents contained in a PSF, that are eligible to be transferred between agencies in accordance with the PSM. It applies to records in any format, including electronic records. See *Application of the schedule* for more information.

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, agencies using this Records Disposal Schedule should apply it with caution. They should be aware that the authorisations for transfer are given in terms of the *Territory Records Act 2002* only. **An agency must not transfer any records where the agency 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.**

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

GUIDELINES FOR USE

Coverage of authority

The *Records Disposal Schedule - Transfer of Custody and Ownership - Personal Security Files*:

- covers all PSF's;
- is intended to be used in conjunction with the TARDiS';
- specifies the temporary or permanent transfer of PSF's; 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 of the terms used. Then each of the Top Term and activity disposal sets or 'disposal classes' relating to the Top Term are described. The Top Term and activity disposal sets show the following details:

Top Term.

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

Activity.

Activities are the processes or operations that make up the Top Term. They are set in bold and italics below the term statement. The scope of the activity encompasses all of the transactions that take place in relation to the activity.

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 Top Term, Activity and Transactions.

Disposal Action.

This describes the relevant transfer type and is the trigger event which initiates the transfer.

Application of the schedule

The transfer permission is given on the understanding that arrangements for the physical transfer of a PSF is in accordance with the PSM and the subsequent management of the files, including destruction where relevant, is in accordance with the PSM subject to any Commonwealth, State or Territory legislation.

Where only the custody of PSF's is transferred to another jurisdiction, the PSF's are to be recovered by the agency concerned when they cease to be needed by the relevant Commonwealth, State or Territory government agency or police service.

Additions made to a PSF that has been temporarily transferred from the custody of the Territory by a Commonwealth, State or Territory government agency or police service will be treated as Territory records.

Where a temporary transfer of a person becomes permanent, the ownership of the PSF may be transferred to the relevant Commonwealth, State or Territory government agency or police service under this schedule.

Where a temporary transfer of a person is for not longer than 6 months the same principle that applies to transfers between Territory agencies is to apply, i.e. the PSF will stay with the originating agency.

The *Territory Records Act 2002* does not apply to PSF's where the ownership has transferred from the Territory to a Commonwealth, State or Territory government agency or police service. The Territory will not have further access to these PSF's other than as provided for under the PSM framework, the *Memorandum of Understanding for the Protection of National Security Information* or by agreement.

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.

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:

Territory Records Act 2002

Australian Government Protective Security Manual

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.

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.

Territory Archives

Records preserved for the benefit of present and future generations.

RECORDS DISPOSAL SCHEDULE

