

Territory Records (Records Disposal Schedule – Public Prosecution Records) Approval 2018 (No 1)*

Notifiable instrument NI2018 —710

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 – Public Prosecution Records) Approval 2018 (No 1)*

2 Commencement

This instrument commences on the day after notification.

3 Approval

I approve the Records Disposal Schedule – Public Prosecution Records.

4 Revocation

This instrument revokes *Territory Records (Records Disposal Schedule - ACT Director of Public Prosecutions Records) Approval 2011 (No 1) NI2011-89*.

Danielle Wickman
Director of Territory Records
13 December 2018

*Name amended under Legislation Act, s 60



Records Disposal Schedule

Public Prosecution Records

Table of Contents

INTRODUCTION	5
PURPOSE	5
SCOPE	5
AUTHORITY	5
STRUCTURE AND RELATIONSHIP TO THE TERRITORY VERSION OF KEYWORD AAA	5
<i>Whole-of-Government Thesaurus</i>	6
GUIDELINES FOR USE	6
<i>Coverage of authority</i>	6
<i>Layout of the schedule</i>	7
FORMAT OF RECORD	8
<i>Electronic records</i>	8
DESTRUCTION OF RECORDS	8
UPDATING THE RECORDS DISPOSAL SCHEDULE	8
ASSISTANCE IN USING THE RECORDS DISPOSAL SCHEDULE	8
RELATED LEGISLATION	9
DEFINITIONS	10
<i>Agency</i>	10
<i>Appraisal</i>	10
<i>Business Classification Scheme</i>	10
<i>Principal Officer</i>	10
<i>Records</i>	10
<i>Records of an Agency</i>	10
<i>Records Disposal Schedule</i>	10
<i>Records Management Program</i>	10
<i>Recordkeeping Systems</i>	11
<i>Scope Note</i>	11
<i>Sentencing</i>	11
<i>Territory Archives</i>	11
BUSINESS CLASSIFICATION SCHEME	12
<i>PUBLIC PROSECUTION RECORDS</i>	13
RECORDS DISPOSAL SCHEDULE	14
<i>PUBLIC PROSECUTIONS RECORDS</i>	15
<i>Coronial Matters</i>	15
<i>Confiscation of Criminal Assets</i>	15
<i>Criminal Matters</i>	16
<i>Planning</i>	17
<i>Policies & Procedures</i>	17
<i>Reporting and Statements</i>	18
RETAIN AS TERRITORY ARCHIVES	19
<i>PUBLIC PROSECUTIONS RECORDS</i>	20
<i>Coronial Matters</i>	20
<i>Criminal Matters</i>	20

Criminal Matters (cont.).....21
Planning.....21
Policies & Procedures.....21
Reporting and Statements.....22

INTRODUCTION

The *Records Disposal Schedule – Director of Public Prosecutions Records* is the official authority for the disposal of these ACT Government Records.

It is one of a series of Whole of Government 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.

PURPOSE

The purpose of this Records Disposal Schedule is to provide for the authorised disposal of 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 such as a records disposal freeze. Current records disposal freezes can be found at the Territory Records Office Internet site <http://www.territoryrecords.act.gov.au/recordsadvice>.

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 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.**

The *Records Disposal Schedule – Public Prosecution 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 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 which incorporated 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 Director of Territory Records 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 (Records, Information and Data) Standard 2016*. Appraisal is based upon the same type of analysis of business activity employed in the classification scheme used in the original 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 – Public Prosecution Records*:

- covers all records related to the function;
- is intended to be used in conjunction with other Territory Records Disposal Schedules;
- 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 People Act 2008
Confiscation of Criminal Assets Act 2003
Coroners Act 1997
Court Procedures Act 2004
Criminal Code 2002
Crimes Act 1900
Crimes (Child Sex Offenders) Act 2005
Crimes (Forensic Procedures) Act 2000
Crimes (Restorative Justice) Act 2004
Crimes (Sentence Administration) Act 2005
Crimes (Sentencing) Act 2005
Director of Public Prosecutions Act 1990
Director of Public Prosecutions Regulation 1991
Evidence (Miscellaneous Provisions) Act 1991
Evidence Act 2016
Freedom of Information Act 2016
Information Privacy Act 2014
Magistrates Court Act 1930
Public Sector Management Act 1994
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

PUBLIC PROSECUTION RECORDS

The function provided by the Director of Public Prosecutions in the institution and conducting of prosecutions in relation to summary offences, and indictable offences, and the associated instituting and responding to appeals in respect of such matters. Also the restraint of and confiscation of assets used in, or derived from, the commission of criminal offences; and assisting the Coroner at coronial inquests (into deaths) and inquiries (into fires).

Coronial Matters

Activities related to coronial inquests and inquiries conducted by the Coroners Court where the Director of Public Prosecutions appears as Counsel assisting the coroner.

Confiscation of criminal assets

Activities related to proceedings to deprive people of the proceeds of crime and the property used for criminal activity.

Criminal Matters

The activities relating to the prosecution of criminal matters in ACT Courts. Includes matters committed from courts for trial and sentences, bail applications and breaches of recognisances given by a court, and appeals heard in ACT courts.

Planning

The activities associated with carrying out systematic planning in order to meet strategic, business or operational goals and objectives.

Policy and Procedures

The activities associated with drafting, developing and implementing policies, procedures, and guidelines establishing decisions, directions, precedents and standard methods of operating which act as a reference for future decision making, and maintaining their currency over time. Includes guidelines devised by both internal and external sources of authority, rules and instructions.

Reporting and Statements

The activities associated with drafting, preparing and providing reports relating to the function including in the form of informal or formal statements, statistics, returns, submissions or similar reports.

RECORDS DISPOSAL SCHEDULE

Criminal Matters

The activities relating to the prosecution of criminal matters in ACT Courts. Includes matters committed from courts for trial and sentences, bail applications and breaches of recognisances given by a court, and appeals heard in ACT courts.

Entry No.	Description of Records	Disposal Action
029.427.001 ██	Records relating to indictable matters and prosecutions in the Supreme Court including: <ul style="list-style-type: none"> • committal papers; • section 90A certificate; • indictment; • case statement; • notice declining to proceed; • criminal history; • victim impact statement; • representations from accused; • pre sentence report; • bail application and affidavit; • breach of recognisance. 	Retain as Territory Archives
029.427.002 ██	Records relating to appeals and appellate matters conducted in the Supreme Court, Court of Appeal and High Court of Australia including: <ul style="list-style-type: none"> • notice of appeal; • notice of appearance; • appeal book; • appeal documentation from court below; • application for special leave to appeal; • application book. 	Retain as Territory Archives
029.427.003 ██	Records relating to sexual matters in the Magistrate Court or Children’s Court	Destroy 45 years after last action
029.427.004 ██	Records relating to summary matters and prosecutions in the Magistrate Court, Children’s Court of a non-sexual nature, and in the Industrial Court including: <ul style="list-style-type: none"> • charge; • statement of facts; • criminal history; • victim impact statement; • representations from defendant; • pre-sentence report; • bail application; • breach of recognisance. 	Destroy 10 years after last action

RETAIN AS TERRITORY ARCHIVES

