

Australian Capital Territory

Territory Records (Records Disposal Schedule – Fair Trading Records) Approval 2020 (No 1)

Notifiable instrument NI2020—228

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 – Fair Trading Records) Approval 2020 (No 1)

2. Approval

I approve the Records Disposal Schedule – Fair Trading Records.

3. Commencement

This instrument commences on the day after notification.

4. Revocation

This instrument revokes Territory Records (Records Disposal Schedule – Fair Trading Records) Approval 2005 (No 1) NI2005-401.

Danielle Wickman
Director of Territory Records
16 April 2020



Records Disposal Schedule Fair Trading Records

INTRODUCTION	3
PURPOSE	3
SCOPE	3
AUTHORITY	3
STRUCTURE AND RELATIONSHIP TO THE TERRITORY VERSION OF	
KEYWORD AAA	3
<i>Territory Version of Keyword AAA</i>	4
GUIDELINES FOR USE	4
<i>Coverage of authority</i>	4
<i>Layout of the schedule</i>	5
FORMAT OF RECORD	6
<i>Electronic records</i>	6
DESTRUCTION OF RECORDS	6
UPDATING THE RECORDS DISPOSAL SCHEDULE	6
ASSISTANCE IN USING THE RECORDS DISPOSAL SCHEDULE	6
RELATED LEGISLATION	7
DEFINITIONS	8
<i>Agency</i>	8
<i>Appraisal</i>	8
<i>Business Classification Scheme</i>	8
<i>Principal Officer</i>	8
<i>Records</i>	8
<i>Records of an Agency</i>	8
<i>Records Disposal Schedule</i>	8
<i>Records Management Program</i>	8
<i>Recordkeeping Systems</i>	8
<i>Scope Note</i>	9
<i>Sentencing</i>	9
<i>Territory Archives</i>	9
BUSINESS CLASSIFICATION SCHEME	10
<i>FAIR TRADING</i>	11
RECORDS DISPOSAL SCHEDULE	12
<i>FAIR TRADING</i>	13
Community Education	13
Compliance Monitoring	14
Consumer Protection.....	16
Licensing.....	17
CLASSES FOR RETENTION AS TERRITORY ARCHIVES	18
<i>FAIR TRADING</i>	19
Community Education	19
Compliance Monitoring	19
Consumer Protection.....	20
Licensing.....	20

INTRODUCTION

The *Records Disposal Schedule – Fair Trading Records* is the official authority for the disposal of records relating to Fair Trading 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 relevant records disposal schedules.

PURPOSE

The purpose of this Records Disposal Schedule is to provide for the authorised disposal of Fair Trading 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 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.**

The *Records Disposal Schedule –Fair Trading 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 Fair Trading 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 –Fair Trading Records:

- covers all Fair Trading records;
- is intended to be used in conjunction with other relevant 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;
- 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:

Agents Act 2003
Classification (Publications, Films and Computer Games) Enforcement Act 1995
Consumer Credit (Administration) Act 1996
Consumer Credit Act 1995
Dangerous Substances Act 2004
Door-to-Door Trading Act 1991
Electronic Transactions Act 2001
Fair Trading (Consumer Affairs) Act 1973
Fair Trading (Fuel Prices) Act 1993
Fair Trading Act 1992
Financial Management Act 1996
Freedom of Information Act 1989
Lay-by Sales Agreements Act 1963
Liquor Act 1975
Pawnbrokers Act 1902
Privacy Act 1988
Prostitution Act 1992
Sale of Goods Act 1954
Sale of Motor Vehicles Act 1977
Second-hand Dealers Act 1906
Security Industry Act 2003
Territory Records Act 2002
Trade Measurement (Administration) Act 1991
Trade Measurement Act 1991

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

Records Disposal Schedule – Fair Trading Records April 2020

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

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Community Education

The activities associated with all aspects of public education and community awareness programs. Includes the development, planning and delivery of programs.

Compliance Monitoring

The activities associated with monitoring compliance with mandatory or optional accountability, fiscal, legal, regulatory or quality standards or requirements. Includes compliance with legislation and with ACT, national and international standards.

Consumer Protection

The activities associated with consumer advice, complaints and breaches relating to consumer protection including product safety. Advice includes general enquiries relating to consumer protection issues such as product safety and trade measurement.

Licensing

The activities associated with the granting of authoritative permission, approval, consent or licence to undertake specific tasks. Includes the licensing of individuals, groups or corporations.

RECORDS DISPOSAL SCHEDULE

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Community Education

The activities associated with all aspects of public education and community awareness programs. Includes the development, planning and delivery of programs.






<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.1.1 ■■■■■■■■■■	Records relating to the planning and design of special or major advertising campaigns such as those publicising new Codes of Conduct.	Retain as Territory Archives
1.1.2 ■■■■■■■■■■	One (1) copy of all Education Kits prepared by the agency for schools and clients.	Retain as Territory Archives
1.1.3 ■■■■■■■■■■	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector's reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives
1.1.4 ■■■■■■■■■■	Records relating to the development, mounting and administration of exhibitions, short courses, seminars, electronic demonstrations, information nights and outreach services developed by the agency.	Destroy 3 years after action completed
1.1.5 ■■■■■■■■■■	Records of routine, provision of information, fact sheets and form letters. Includes records kept for reference and to answer routine enquiries. Also includes records kept for statistical purposes in relation to provision of routine information.	Destroy 1 year after action completed

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Compliance Monitoring

The activities associated with monitoring compliance with mandatory or optional accountability, fiscal, legal, regulatory or quality standards or requirements. Includes compliance with legislation and with ACT, national and international standards.





<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.2.1 	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector's reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives
1.2.2 	Index or register of products that are totally or conditionally banned.	Retain as Territory Archives
1.2.3 	Product safety exhibits seized or obtained from companies and individuals by officers in the course of investigations including original records, pre-packed articles, packages, toys and other items of physical evidence.	If banned, destroy 7 years after completion of investigation or retain for exhibit purposes. If a prosecution has not commenced return to the owner within 120 days.
1.2.4 	Records relating to the administration and control of compliance and investigations including manual registers and electronic control systems such as the Integrated Business System (IBS).	Destroy 20 years after action completed
1.2.5 	Records relating to compliance and investigations. Includes compliance and notification forms and associated documentation, reports, working papers, documentation received from licensee, correspondence and copies of final reports, records relating to litigation or legal action, copies of investigations (compliance) reports, court documents and correspondence with solicitors and traders.	Destroy 7 years after last action

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Compliance Monitoring (continued)

The activities associated with monitoring compliance with mandatory or optional accountability, fiscal, legal, regulatory or quality standards or requirements. Includes compliance with legislation and with ACT, national and international standards.

1.2.6 	Records relating to testing of measuring equipment including the registration of owners of certified testing equipment, tests and calibration results, and the issue of certificates of approval under National Measurement Regulations.	Destroy 7 years after registration lapses
1.2.7 	Copies or representations of records seized or obtained from companies and individuals by officers in the course of investigations.	Destroy 5 years after action completed
1.2.8 	Test results, data sheets and data entry forms.	Destroy 1 year after data entered and verified
1.2.9 	Exhibits seized or obtained from companies and individuals by officers in the course of investigations including original records, pre-packed articles, packages, toys and other items of physical evidence.	Destroy 7 years after completion (with the exception of perishable or consumable goods) of investigation or retain for exhibit purposes. If a prosecution has not commenced return to the owner within 120 days.

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Consumer Protection

The activities associated with consumer advice, complaints and breaches relating to consumer protection including product safety. Advice includes general enquiries relating to consumer protection issues such as product safety and trade measurement.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.3.1 ████████████████████	Index or register of products that are totally or conditionally banned.	Retain as Territory Archives
1.3.2 ████████████████████	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector’s reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives
1.3.3 ████████████████████	Records relating to the administration and control of advice and complaints, including manual registers and electronic control systems such as the Integrated Business System (IBS).	Destroy 20 years after action completed
1.3.4 ████████████████████	Records relating to advice and complaints including complaint forms and associated documentation, working notes, reports, correspondence and records of conversations.	Destroy 7 years after last action
1.3.5 ████████████████████	Records of routine, provision of information, fact sheets and form letters. Includes records kept for reference and to answer routine enquiries. Also includes records kept for statistical purposes in relation to provision of routine information.	Destroy 1 year after action completed
1.3.6 ████████████████████	Exhibits seized or obtained from companies and individuals by officers in the course of investigations including original records, pre-packed articles, packages, toys and other items of physical evidence.	Retain for 6 months after completion of investigation then return to owner
1.3.7 ████████████████████	Copies or representations of records seized or obtained from companies and individuals by officers in the course of investigations.	Destroy 1 year after action completed

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Licensing

The activities associated with the granting of authoritative permission, approval, consent or licence to undertake specific tasks. Includes the licensing of individuals, groups or corporations.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.4.1 ████████████████	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector's reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives
1.4.2 ████████████████	Records relating to the administration and control of business licences and registration, including manual registers and electronic control systems such as the Integrated Business System (IBS).	Destroy 20 years after action completed
1.4.3 ████████████████	Records relating to business licensing and registration. Includes application forms and associated documentation, copies of licences and correspondence, copies of certification and non-compliance forms forwarded to the agency by licensees and forms returned to the agency when a licensee ceases business.	Destroy 7 years after expiry of licence
1.4.4 ████████████████	Records of routine general correspondence, provision of information, fact sheets and form letters. Includes records kept for reference and to answer routine enquiries. Also includes records kept for statistical purposes in relation to provision of routine information.	Destroy 1 year after action completed
1.4.5 ████████████████	Records relating to the registration of sole trader sex workers, including manual registers, electronic control systems such as the Integrated Business System (IBS), application forms and associated documentation, copies of certificates, correspondence, annual returns from registrants, notifications of ceased business.	Destroy 1 year after registration lapses

CLASSES FOR RETENTION AS TERRITORY ARCHIVES

Classes for retention as Territory Archives

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Community Education

The activities associated with all aspects of public education and community awareness programs. Includes the development, planning and delivery of programs.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.1.1 ■■■■■■■■■■■■■■■■■■■■	Records relating to the planning and design of special or major advertising campaigns such as those publicising new Codes of Conduct.	Retain as Territory Archives
1.1.2 ■■■■■■■■■■■■■■■■■■■■	One (1) copy of all Education Kits prepared by the agency for schools and clients.	Retain as Territory Archives
1.1.3 ■■■■■■■■■■■■■■■■■■■■	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector's reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives

Compliance Monitoring

The activities associated with monitoring compliance with mandatory or optional accountability, fiscal, legal, regulatory or quality standards or requirements. Includes compliance with legislation and with ACT, national and international standards.

<i>Entry No.</i>	<i>Description of Records</i>	<i>Disposal Action</i>
1.2.1 ■■■■■■■■■■■■■■■■■■■■	Records of matters of a significant nature which set a legal, operational or procedural precedent or resulted in major changes in policy, major withdrawal of product, or where a faulty product leads to death or serious injury. Also includes inspector's reports, complaints, scientific reports, correspondence and policy documents, and documents relating to legal actions instituted by or on behalf of the agency.	Retain as Territory Archives
1.2.2 ■■■■■■■■■■■■■■■■■■■■	Index or register of products that are totally or conditionally banned.	Retain as Territory Archives

Classes for retention as Territory Archives

FAIR TRADING

The function of assisting and protecting the community through the administration of fair trading legislation and the registration and compliance of businesses in specific industries.

Consumer Protection

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