



Australian Government

National Archives of Australia

General Records Authority No 38

2018/00273960

Ministers of State

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CONTENTS

INTRODUCTION	4
APPLICATION OF THIS AUTHORITY	4
CONTACT INFORMATION	7
AUTHORISATION	8
MINISTERIAL OFFICE AND PORTFOLIO MANAGEMENT	9

INTRODUCTION

The National Archives of Australia has developed this records authority to set out the requirements for keeping or destroying records relating to offices of Ministers of State. These records, referred to as Ministerial records, are the records created or received in the course of discharging official functions as a Minister or made or received by the Ministerial office in relation to those duties. A Ministerial record that is made in the exercise of official Ministerial duties is the property of the Commonwealth and is therefore a Commonwealth record. This records authority does not affect the right of a Minister to retain or dispose of non-Commonwealth records, such as those dealing with personal, party political or electorate matters, as he or she sees fit.

This records authority is based on the identification and analysis of the official business of Ministers and Ministerial offices. It sets out those records that are part of the archival resources of the Commonwealth and need to be retained permanently as national archives, and specifies the minimum length of time that temporary records need to be kept. The records authority gives Ministers, their staff or agents, and the heads of Commonwealth institutions in possession of Ministerial records permission, under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired.

This records authority is issued under section 3C and paragraph 24(2)(b) of the *Archives Act 1983*.

Background

The National Archives is an executive agency with statutory functions under the *Archives Act 1983*. These functions include identifying and preserving the archival resources of the Commonwealth and authorising the disposal or destruction of Commonwealth records.

Subsection 24(1) of the *Archives Act 1983* prohibits the destruction or other disposal, alteration or damage, or transfer of the custody or ownership of Commonwealth records. The prohibition does not apply to anything done:

- as required by any law;
- with the permission of the National Archives or in accordance with a practice or procedure approved by the National Archives;
- in accordance with a normal administrative practice for the disposal of certain types of low value and short-term records, other than a practice of a department or authority of the Commonwealth of which the Archives has notified the department or authority that it disapproves; or
- for the purpose of placing Commonwealth records not in the custody of the Commonwealth or of a Commonwealth institution in the custody of the Commonwealth or of a Commonwealth institution that is entitled to custody of the records.

It is the function of the National Archives to have the care and management of Commonwealth records that are part of the archival resources of the Commonwealth, when they are no longer required for business purposes. The Archives regulates public access to Commonwealth records in accordance with the *Archives Act 1983*.

APPLICATION OF THIS AUTHORITY

1. This records authority applies to those records kept by, or on behalf of, a person holding the office of Minister that are considered to be Ministerial records. Ministerial records may be records in any form, including any electronic form.
2. The following definitions are used in this records authority:

Agency records are records of a Commonwealth institution as defined in the *Archives Act 1983*, and include records of a department or a portfolio agency or body.

Commonwealth record has the same meaning as in the *Archives Act 1983*.

Minister or Minister of State means one of the Ministers of State for the Commonwealth as described in section 64 of the Australian Constitution. References to Ministers and Ministers of State also include Parliamentary Secretaries.

Ministerial office includes all members of staff employed by the Minister, including senior staff and ministerial advisers, contractors, agents, consultants and other officers (including departmental liaison officers) engaged to provide advice and assistance to Ministers in the performance of their official

functions. References to Ministerial office also apply to members of staff employed by a Parliamentary Secretary.

Ministerial record means a record made or received and kept by:

(a) a Minister; or

(b) a Ministerial office;

other than a record that was not made or received in connection with discharging the Minister's ministerial responsibilities.

Record has the same meaning as in the *Archives Act 1983*.

3. The following are not Ministerial records for the purposes of this records authority:

- *Cabinet documents*

This records authority does not apply to Cabinet documents as defined in the *Cabinet Handbook* of the Commonwealth (as amended from time to time) – except in the case of copies of Cabinet records that have been substantially annotated by the Minister or the Ministerial office. Cabinet documents are Commonwealth records subject to the *Archives Act 1983*. Cabinet documents must be managed in accordance with the *Cabinet Handbook* or as directed by the Cabinet Secretariat, and the *Archives Act 1983*.

- *Agency records*

This records authority does not apply to agency records. It is expected that all agency records will be returned to the originating department or agency when no longer required, or treated in accordance with the agency's directions.

Agency records include documents such as submissions, briefing notes, ministerial correspondence and replies to questions prepared by agency staff that are expected to be read by the Minister or the Minister's staff and returned to the agency with or without annotations. They remain agency records unless they receive further action by the Minister or the Ministerial office and are incorporated into the Minister's records or Ministerial office recordkeeping system.

Records made or received and kept by departmental liaison officers (DLOs) stationed in Ministerial offices are considered to be agency records and should be returned to the relevant agency.

- *Records not made or received in connection with the Minister's ministerial responsibilities (eg personal, party political and electorate matters).*

Records that are not considered to be Ministerial records include:

- records concerning the Minister's political party, leadership, party organisation, internal political party appointments, and caucus records that do not relate to the discharge of official responsibilities as a Minister of State;
- correspondence from the public concerning matters that are not related to the portfolio of the Minister;
- other correspondence not related to management of the Minister's portfolio;
- records of a Minister kept in their capacity as a Member of Parliament;
- records concerning the Minister's electorate matters; and
- records relating to private matters of the Minister (eg personal correspondence).

However, where a particular record comprises a record of both ministerial responsibilities and other matters, it is considered to be a Ministerial record.

4. This records authority is to be used to determine how long records must be kept by matching records to the relevant core business and records class. Core business describes the major responsibilities of an agency or Minister of State. A record class groups records with the same disposal action.

- Records that are identified as 'Retain as National Archives' will be accepted for transfer to the National Archives for preservation.

- Ministerial records which are not identified as 'Retain as National Archives' may be destroyed in accordance with this records authority, without further reference to the National Archives, once the minimum retention period has expired and the records are no longer needed for business purposes.
 - Records that have not reached the minimum retention period must be kept until they do.
5. Records should be appropriately stored, managed and preserved to ensure that the records remain authentic and accessible, at least for their minimum retention period.
 6. This records authority should be used in conjunction with other general records authorities such as:
 - the *Administrative Functions Disposal Authority* (AFDA) and/or *AFDA Express* issued by the National Archives to cover business processes and records common to Australian Government agencies; and
 - *General Records Authority 31 – Destruction of source or original records after digitisation, conversion or migration*.

Permission to use these and other applicable general records authorities issued by the National Archives is granted by this authority. Where this records authority has a longer retention period for particular records than a class in AFDA, AFDA Express or other general records authority, the longer retention period in this records authority must be applied.

7. The normal administrative practice (NAP) provision of the *Archives Act 1983* enables Ministers or Ministerial offices to destroy certain types of records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements in this records authority but can be used as a tool to assist in identifying records for destruction together with this records authority and with AFDA, AFDA Express or other general records authorities. The National Archives recommends that Ministerial offices develop and implement a normal administrative practice policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop a NAP policy are available from the National Archives' website at www.naa.gov.au.
8. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated from one system to another) this records authority can still be applied, provided the records document the same core business. The information must be accessible for the period of time prescribed in the relevant records authority or until the information is transferred into the custody of the National Archives.
9. Retention periods in this records authority are minimum periods. Ministers may retain records longer if they consider that there is a need to do so, without further reference to the National Archives. Where it is considered that accountability will be substantially compromised because a retention period is not adequate, please contact the National Archives.
10. From time to time the National Archives will place a disposal freeze on some groups of Commonwealth records relating to a particular topic or event which has gained prominence or provokes controversy or is subject to a judicial hearing. While the freeze is in place no records relating to the topic or event may be destroyed. Further information about disposal freezes and whether they affect the application of this records authority is available from the National Archives website at www.naa.gov.au.
11. Despite anything in this records authority, a person must not destroy, otherwise dispose of or alter a record if the person knows it is reasonably likely that the record may be required as evidence in:
 - (a) a current judicial proceeding; or
 - (b) a future judicial proceeding that will be commenced or will likely be commenced.
12. Records of 'Retain as National Archives' (RNA) status in this records authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983* and should be transferred to the National Archives by arrangement when they cease to be required for business purposes or when the Minister leaves office.

Ministerial records of archival value that are in the custody of a Commonwealth institution are required to be transferred to the care of the National Archives in accordance with section 27 of the *Archives Act 1983*. The permission of the National Archives is required where a Minister or other person wishes to transfer the custody of Ministerial records to a person or institution other than the Commonwealth or a Commonwealth institution.

CONTACT INFORMATION

For assistance with this authority or for advice on transfer arrangements and other information management matters, please contact National Archives' [Agency Service Centre](#).

AUTHORISATION

RECORDS AUTHORITY 2018/00273960

Person to whom notice of authorisation is given:

Ministers, former Ministers, and Ministerial offices.
Heads of Commonwealth institutions in possession of Ministerial records.

Purpose:

Authorises arrangements for the disposal of records in accordance with paragraph 24(2)(b) of the *Archives Act 1983*.

Determines records classed as 'Retain as National Archives' in this records authority to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.

Application:

All core business records relating to Ministerial Office and Portfolio Management.

This authority gives permission for the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of a person or the agency currently responsible for the business documented in the records described.

Authorised by**Date of issue:** 25 October 2018

Linda Macfarlane
Assistant Director-General (A/g)
National Archives of Australia

MINISTERIAL OFFICE AND PORTFOLIO MANAGEMENT

The business of managing the official operations and activities of Ministers of State to support and fulfil their ministerial portfolio responsibilities and obligations as representatives of the Commonwealth. Excludes records connected with the Minister's personal or party political activities, and electorate office records.

Note: Original portfolio agency records, such as registered files and correspondence, which have been passed to the Minister from an agency, should be returned to the responsible agency.

The **core activities** include:

- preparation of the Minister's daily itinerary and event briefings;
- developing, implementing and reviewing Government policy and legislation relating to the portfolio;
- drafting and progressing Bills through Parliament in accordance with the Government's legislation program;
- administering legislation that the Minister is responsible for, including resolving litigation in relation to the administered legislation in which the Commonwealth is a party;
- conducting portfolio business where the issue or matter may originate either within a portfolio or agency and is referred to the Minister, or is dealt with directly by the Ministerial office without referral to a portfolio or agency;
- providing leadership and direction to portfolio agencies;
- supporting the Minister as a member of Cabinet and a member of the Executive Council;
- assisting the Minister in their Parliamentary role, where that role relates to the discharge of their ministerial duties;
- providing and receiving advice and other information, including briefings;
- planning and implementing administrative changes to the machinery of government, including establishing portfolios and creating new agencies, and changing the responsibilities of a portfolio or changing the functions of an agency within the portfolio of a Minister;
- authorising actions and delegating powers;
- media liaison, including dealing with media enquiries and preparing and issuing media releases;
- monitoring media coverage of portfolio issues (eg gathering newspaper clippings, recording interviews with the Minister);
- establishing and managing boards and committees relating to the Minister's portfolio, including intergovernmental committees;
- supporting the Minister's direct involvement with Parliamentary Committees, Royal Commissions, and Commissions of Inquiry;
- liaising and maintaining relationships with stakeholders, including the Prime Minister, Cabinet, other Ministers, other Members of Parliament and other Governments;
- disseminating policy and other information to portfolio agencies and the general public;
- establishing and maintaining relationships with professional bodies, industry and the community;
- lobbying of the Minister by members of the community, industry or government attempting to influence decision making;
- advocacy efforts undertaken by the Minister on matters relating to their portfolio responsibilities;
- community consultation, feedback and communication, including managing enquiries to the Minister and handling public reaction to Government policies and practices;
- negotiating, establishing and implementing agreements and contracts;
- preparing and presenting speeches;

MINISTERIAL OFFICE AND PORTFOLIO MANAGEMENT

- visits by the Minister to other governments, organisations, and individuals, to inform, educate or promote the services, operations and role of the Minister and their portfolio; and
- arranging and attending conferences, seminars, discussion forums and workshops.

The performance of the core business is supported by **general activities** such as:

- arranging trips and visits;
- planning, researching and reporting;
- evaluating and reviewing; and
- managing administrative meetings.

Cross references to AFDA Express records authority

For financial records supporting Ministerial office administration, use FINANCIAL MANAGEMENT.

For managing legal services, including the establishment and general management of intellectual property, use LEGAL SERVICES.

For workplace health and safety issues involving Ministerial office personnel, use OCCUPATIONAL HEALTH & SAFETY.

For managing Ministerial office permanent, temporary and part-time employees, as well as people working under scholarships, traineeships, apprenticeships and similar relationships, use PERSONNEL.

For managing the acquisition of goods and services to support the Ministerial office, including contracting and managing Ministerial consultants, use PROCUREMENT.

Cross references to other records authorities

For Cabinet documents, other than substantially annotated copies, use the Cabinet Handbook.

For developing and executing contracts under seal or deeds, use CONTRACTS UNDER SEAL/DEEDS.

Class no	Description of records	Disposal action
62496	<p>Records documenting:</p> <ul style="list-style-type: none"> • Minister's input into development, implementation and review of policy and legislation, including budgeting of new policy proposals or programs, and detailed background information; • Minister's input into drafting and progressing Bills, including negotiations and amendments required to secure support; • portfolio business which originated in a portfolio agency, and which has been significantly annotated by the Minister or the Ministerial office, and not returned to the portfolio agency; • portfolio business that originates in the Ministerial office without referral to the portfolio agency, including subject files and indexes; • substantially annotated copies of Cabinet and Executive Council records; • communication and liaison with other Ministers (including the Prime Minister), Members of Parliament, and other Governments, on matters relating to the Minister's portfolio; • deliberations, decision making and actions on matters relating to the Minister exercising their statutory responsibilities with respect to their portfolio, including appointments, terminations and exercise of discretionary powers; 	Retain as national archives

MINISTERIAL OFFICE AND PORTFOLIO MANAGEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • machinery of government changes to or within the Minister's portfolio; • official assignments from the Prime Minister outside the Minister's portfolio; • involvement of the Minister in Parliamentary Committees, Royal Commissions or inquiries where the Minister has been a member, was required to give evidence or had any other association, including the making of formal submissions. Excludes Class A Parliamentary Committee records (see <i>Archives (Records of Parliament) Regulations 1995</i>); • establishment or interaction with boards and committees in the Minister's portfolio, and Ministerial office committees established to formulate policy and determine major Ministerial programs. Includes advice received; • involvement in Ministerial Councils and similar forums; • briefings or papers created by the Ministerial office or portfolio agency, or received from other Ministers, concerning portfolio specific or whole of government issues that are significant or controversial. Includes all briefs to the Prime Minister and briefings prepared for parliamentary question time or for meetings with stakeholder groups; • correspondence with members of the public or organisations where the matter receives considerable investigation and a specific response. Excludes correspondence concerning matters of a routine nature or referred to another Minister for action and receiving no further action; • summary records such as registers, indexes and datasets (eg register of correspondence); • enquiries or public reaction resulting in reversal of a government decision; • lobbying of the Minister, or advocacy by the Minister, in relation to their portfolio responsibilities where the matter is of national significance, controversial or of considerable public interest, or the lobbying results in new or amended legislation or changes to Government decisions or policy positions. Includes petitions; • allocation of grant funding. Includes registers of applications; • negotiation and development of agreements, joint ventures and contracts by the Minister or relating to the Minister's portfolio responsibilities, where: the matters are of national significance with far reaching social, political or economic implications; are controversial or attract substantial public interest; result in a significant impact on the operations of the portfolio; or involve a substantial funding commitment by the Government. Includes intergovernmental agreements; • industrial agreements or awards, where the Ministerial office has substantial input; • litigation specific to the Minister's portfolio which relates to matters that are precedent-setting, generate substantial public interest or controversy, or result in substantial changes to portfolio agency policy and procedures; • legal advice or opinions received by the Minister; • final versions of Minister's daily itinerary and event briefings; • final versions of speeches presented by the Minister; 	

MINISTERIAL OFFICE AND PORTFOLIO MANAGEMENT

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> collection of photographs, images or videos relating to the Minister's role; events, celebrations, ceremonies and social functions attended by the Minister, or their representative, or hosted by the Minister, that are of state-wide, national or international significance or organised to mark major anniversaries of significant events. Includes programs, invitations, and photographs; receiving visits from dignitaries or high-level delegations in connection with matters relating to the Minister's portfolio responsibilities; visits by the Minister, including overseas visits, which are of national significance or generate public interest or controversy; appreciations, congratulations and condolences relating to prominent citizens and foreign leaders; final versions of media releases or statements by the Minister, and recordings or transcripts of interviews with the Minister; communication and interaction via social media platforms with stakeholders, including the general public, by the Minister or the Ministerial office, where: communications are conducted via the official social media accounts of the Minister or the Ministerial office; or, communications are created or received using other social media accounts (including the Minister's personal social media accounts) but relate to discharging their official functions and responsibilities as a Minister, or which are made or received by the Ministerial office in relation to those duties; master versions of publications originating from the Minister's Office; delegations and authorisations, including registers of delegations; ministerial diaries or appointment books; and Freedom of Information (Fol) cases that are precedent-setting or generate substantial public interest. Includes withheld and amended documents. 	
62497	<p>Records documenting:</p> <ul style="list-style-type: none"> Ministerial office and portfolio management activities, other than those covered in class 62496. 	<p>Destroy 7 years after action completed or when the Minister leaves office, whichever is sooner</p>