



Australian Government

National Archives of Australia

Records Authority
2010/00663993

High Court of Australia

22 November 2010

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INTRODUCTION

The High Court of Australia and the National Archives of Australia have developed this Records Authority to set out arrangements for keeping or destroying records for the core business areas of Court Administration and Communications, Heritage Building, Collection and Ceremonial Management, High Court Cases, and Legal Knowledge Repository and Services. It represents a significant commitment on behalf of the High Court to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of the High Court. It takes into account the Court's legal and organisational records management requirements, and the interests of stakeholders, the Court and the National Archives of Australia.

The Authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This Authority gives the High Court of Australia endorsement under the Archives Act 1983 for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are endorsed by the National Archives of Australia on the basis of information provided by the High Court.

As changes in circumstances may affect future records management requirements, the periodic review of this Authority is recommended. All amendments should be endorsed by the National Archives.

APPLICATION OF THIS AUTHORITY

1. This Authority replaces Records Authority (RA) 1205. The replaced RA should not be used by the High Court of Australia to sentence records after the date of issue of this Authority.
2. This Authority is to be used to sentence records. Sentencing involves the examination of records in order to identify the individual disposal class to which they belong. This process enables sentencers to determine how long records need to be kept. Advice on sentencing is available from the National Archives.
3. This Authority should be used in conjunction with 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;
 - encrypted records; and
 - source records that have been copied.
4. The High Court may make use of Normal Administrative Practice (NAP) to destroy certain records without formal endorsement. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this Authority but can be used as a tool to assist in identifying records for destruction together with an agency's Record Authority or Authorities, and with AFDA and AFDA Express. The National Archives recommends that the High Court 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 High Court NAP policy is available from the National Archives' website at www.naa.gov.au
5. 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 a new system) this authority can still be applied, providing the records document the same core business. The information should be accessible for the period of time prescribed in this Authority. The High Court should maintain

continuing access to the information, including digital information, for the periods agreed to in this records authority or until the information is transferred into the custody of the National Archives.

6. In general, retention requirements indicate a minimum period for retention. The High Court may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the High Court believes that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.

7. From time to time the National Archives will place a freeze on some groups of records relating to a particular topic or event which has gained prominence or provokes controversy. 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 Authority is available from the National Archives website at www.naa.gov.au

8. The High Court of Australia is not subject to the records transfer provisions of the *Archives Act 1983*. In the interests of accountable and consistent decision making and preservation of the archival resources of the Commonwealth, records identified as "retain as national archives" in the possession of the Court may be transferred to the custody of the National Archives of Australia, by mutual agreement between the Court and the Archives.

9. A Judge's own papers may be disposed of as and when their owners or controllers deem appropriate. These records may be of great interest and value because they complement the Court's records and have national importance as archival resources of the Commonwealth. Such records may be transferred to the National Archives of Australia for continuing care and preservation. Judges who wish to discuss the deposit of their papers should contact the Archives, Personal Papers section via the switchboard on (02) 6212 3600 or email archives@naa.gov.au

10. Advice on how to use this Authority is available from the High Court records manager. If there are problems with the application of the Authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other records management matters, please contact National Archives' Agency Service Centre.

Queen Victoria Terrace

Parkes ACT 2600

PO Box 7425

Canberra Mail Centre ACT 2610

Tel: (02) 6212 3610

Fax: (02) 6212 3989

Email: recordkeeping@naa.gov.au

Website: www.naa.gov.au

ENDORSEMENT

RECORDS AUTHORITY 2010/00663993

Person to whom notice of endorsement is given:

Andrew Phelan
Chief Executive & Principal Registrar
High Court of Australia
Parkes Place,
PARKES, Australian Capital Territory, 2600

Purpose:

Endorses arrangements for the disposal of records in accordance with section 24(2)(b) of the Archives Act 1983

Application:

All core business records relating to:

- Court Administration and Communications
- Heritage Building, Collection and Ceremonial Management
- High Court Cases
- Legal Knowledge Repository and Services

This records authority endorses the destruction, retention or transfer to the National Archives of Australia of the records described. The authority will apply only if these actions take place with the consent of the High Court of Australia.

Endorsing Officer

Date of issue:



22 November 2010

Ross Gibbs
Director-General
National Archives of Australia

COURT ADMINISTRATION AND COMMUNICATIONS

The core business of developing and managing court policies, practices and communications. Includes:

- Justices' meetings and committees for planning, policy and review including the Rules Committee, responsible for the Rules of Court: The Rules of Court implement the provisions of the Judiciary Act and any other Act that confers jurisdiction upon the High Court or relates to the practice and procedure of the Court;
- Management of public information and civic education responsibilities including informing and educating visitors and students about the role of the Court in Australian governance, judiciary and the Constitution;
- Management of representational and liaison activities, including but not limited to international and Australian jurisdictions; and
- Registry and other administrative activities that do not form part of a High Court Case file including litigation searches and requests for information on court services, practice and procedure.

For the administration of High Court case files including listings (sittings files), case management activities, and registry actions that form part of the High Court case file use HIGH COURT CASES.

For speeches and addresses by Justices of the Court and senior court officials such as the Principal and Senior Registrars, use LEGAL KNOWLEDGE REPOSITORY AND SERVICES.

Class No	Description of records	Disposal action
21895	Records documenting: <ul style="list-style-type: none"> • justices' meetings including its sub-committees such as the Rules Committee and the Public Information Committee; • audits, reports, reviews and other records relating to the core business of Court Administration and Communications that are controversial or lead to changes in policies, practices or procedures (excluding minor adjustments); • final versions of civic education and other public information materials; • Rules of Court; • register of practitioners pursuant to Section 55 of the Judiciary Act 1903; and • judicial letter books. 	Retain as national archives
21896	Administration of Registry Offices, including the Principal Registry. Includes: Arrangements for provision of registry services by another court; Correspondence between heads of jurisdiction relating to legal and court business; Development of directives and advice on procedural or legal matters and Legacy Registry letter books.	To be retained in the Court
21897	<ul style="list-style-type: none"> • Records documenting risk management including planning, reporting and reviewing; and • records documenting security breaches and security reviews. 	Destroy 10 years after last action
21898	Diaries of Principal and State Registrars.	Destroy 1 year after last action
21899	Records documenting routine administrative tasks that support the core business and Court Administration and Communications activities other than those covered by classes 21895 to 21898, including:	Destroy 7 years after last action

COURT ADMINISTRATION AND COMMUNICATIONS

Class No	Description of records	Disposal action
(cont)	<ul style="list-style-type: none">records documenting external committees and internal committees that are not covered in class 21895;audits, reports and reviews that are not controversial and do not lead to any changes to policies, practices and procedures and that are not related to risk management or security; <i>[For audits, reports and reviews that are controversial or lead to changes use class 21895 and for those related to risk management or security use class 21897]</i>records documenting general correspondence and enquiries that do not form part of a High Court case file including correspondence received to which no reply is made; litigation searches of both case & practitioners registers; and unsolicited correspondence addressed to Justices of the Court;routine administration of Registry Offices, including the Principal Registry. Includes, but not limited to: correspondence between Principal Registry and regional registries; directions to regional registries on procedural matters; draft orders, settled orders, fee books and precedents;development of educational and public information materials; anddeclarations of students-at-law and related records, including students attendance books.	

HERITAGE BUILDING, COLLECTION AND CEREMONIAL MANAGEMENT

The core business of managing a heritage building, an historic collection and ceremonial occasions that all represent aspects of the significance of the High Court of Australia:

- Heritage building management concerns architectural, engineering, maintenance and other projects and programs related to maintaining, preserving, refurbishing, and renovating the High Court of Australia building and grounds and ensuring compliance with heritage values, standards and legislation. The High Court building and grounds comprises the High Court buildings, terraces, courts, paving, gardens and water features within the National Heritage listed High Court – National Gallery Precinct;
- Collection management concerns the management of the High Court's collection of artefacts and artworks, many of which are unique to the High Court's work and its history; and
- Ceremonial management concerns the management and documentation of the functions and ceremonies that mark important occasions in the life and work of the High Court such as the opening of the High Court, swearing in of new judges and the retirement of Chief Justices.

The core business includes the following tasks:

- planning and design;
- policies and procedures;
- project management;
- heritage building and grounds construction, refurbishment, preservation, maintenance and associated consultations;
- collection acquisition, preservation, disposal and security of the collection;
- visits and ceremony arrangements and documentation; and
- audits, reports, evaluations and reviews.

For the development and final versions of educational and public information materials use COURT ADMINISTRATION AND COMMUNICATIONS.

For records documenting security breaches and security reviews use COURT ADMINISTRATION AND COMMUNICATIONS.

Class No	Description of records	Disposal action
21903	<p>Records documenting:</p> <ul style="list-style-type: none"> • the construction of the High Court of Australia building and grounds. Includes, but not limited to: Records of consultations; specifications; building plans; and project management records; • the activities (other than routine conservation, maintenance and security) involved in the refurbishment, preservation, protection, restoration and enhancement of the High Court of Australia building and grounds. Includes, but not limited to: final version of plans to support the management of the HCA building (including Heritage Management Plan); notification of intent and assessment of obligations regarding any refurbishment; Records of consultations; specifications; building plans; policies and procedures; project management records; reports, reviews and audits; • the activities (other than routine conservation, maintenance and security) involved in the acquisition, content, presentation, preservation and security of items in the collection that are directly related to the High Court (such as official and other 	Retain as national archives

HERITAGE BUILDING, COLLECTION AND CEREMONIAL MANAGEMENT

Class No	Description of records	Disposal action
(cont)	Justice portraits or the first High Court sitting) and other items that are of major artistic, historic or monetary value; <ul style="list-style-type: none"> ceremonies and occasions that are of great significance to the Court such as the opening of the High Court building and the High Court centenary; photographic, audio-visual and artistic records relating to ceremonies and events of historical significance to the Court. Includes, but not limited to: Official opening of the High Court of Australia building; swearing in and retirement ceremonies for Chief Justices and Justices of the Court; official portraits of the Court; and visits to High Court by heads of national jurisdictions and heads of international organisations including supporting documentation such as invitations, itineraries, programs and menus. 	
21904	<ul style="list-style-type: none"> Records of visits by dignitaries and overseas delegations to the Court other than heads of national jurisdictions or heads of international organisations, including ceremonial visits by diplomatic staff to the Chief Justice. Excludes supporting documentation such as itineraries, programs and invitations; and records documenting the activities (other than routine conservation, maintenance and security) involved in the acquisition, content, presentation, preservation and security of items in the collection other than those covered in class 21903. 	To be retained in the Court
21905	Routine conservation of the High Court of Australia building.	Destroy 50 years after last action
21906	Records documenting routine administrative tasks supporting the core business; and records covering Heritage Building Management activities other than those covered in classes 21903 to 21905. Includes: <ul style="list-style-type: none"> minor and routine security and maintenance such as security checks, minor repairs to windows, plumbing and routine servicing of air conditioners; and supporting documentation of visits to the High Court of Australia made by dignitaries and overseas delegations other than heads of national jurisdictions and heads of international organisations. Includes, but not limited to: invitations; itineraries and programs; menus of any formal or ceremonial meals held at the Court. 	Destroy 7 years after last action

HIGH COURT CASES

The core business of managing the Court's constitutionally established responsibility of exercising the judicial power of the Commonwealth by hearing and deciding cases. The Court's jurisdiction includes hearing and deciding appeals as the final appellate court in Australia, and cases brought within the Court's original jurisdiction as defined by the Constitution. Court case files include application and filing activities, making and sealing of orders and judgments, transcripts of hearings, reasons for judgment of the Court and correspondence between the parties or legal representatives and the Court. Administrative files relating to court case files include listings (sittings files), and case management activities, including judicial directions regarding the institution of cases.

For the management of Court policies and practices including the Rules of Court use COURT ADMINISTRATION AND COMMUNICATIONS.

For the management of Registry activities that do not form part of the High Court case file, use COURT ADMINISTRATION AND COMMUNICATIONS.

For Practitioners Register use COURT ADMINISTRATION AND COMMUNICATIONS.

Class No	Description of records	Disposal action
21900	<ul style="list-style-type: none"> • Case files, including but not limited to: filed documents; case management activities; fee payment and waiver activities; correspondence between the parties or legal representatives and the court; sealed orders; original signed judgments; reasons for decisions; copy of pamphleted judgments; and transcripts; • transcripts prior to 1995; • judgments prior to 1995; • Audio and Audio-visual recordings of constitutional and other important or noteworthy cases nominated by the Registrar. Criteria of importance for selection includes: interpretation of the Constitution; significant public interest; pivotal in interpretation of legislation; overturns a previous High Court decision; • Sittings files, including but not limited to: Senior Registrar's listing notes; proposals; business lists; daily court lists; short particulars (a précis of the facts and issues arising in the case); Arrangements for circuit sittings or video-conference hearings; • Case Management System (CMS) database; • Manual Registers of Matters for each State; • index cards of case names; • files regarding applications for leave to issue proceedings; • Court Minute Books; • records documenting court sittings, including Full Court, chambers and taxation of costs; • legacy records documenting administration of Trading with the Enemy Act 1939 matters; and • the following legacy registers related to High Court Cases: execution books; exhibit books; fees books; investment book; suitors' fund account books; warrant books. 	Retain as national archives
21901	<p>Audio and audio-visual recordings of all other cases not nominated by the Registrar</p> <p><i>[For those nominated by the Registrar use class 21900]</i></p>	Destroy 1 year after last action
21902	Records documenting routine administrative tasks supporting the core business; and records covering High Court Cases activities other than those covered in classes 21900 and 21901.	Destroy 7 years after last action

LEGAL KNOWLEDGE REPOSITORY AND SERVICES

The core business of maintaining the High Court of Australia's library and information resources. Includes acquisition and maintenance of the library.

For library and information resources activities such as book binding, inter-library loans, and culling of library collection, use AFDA INFORMATION MANAGEMENT.

For financial records supporting acquisition activities use AFDA FINANCIAL MANAGEMENT – Accounting and / or FINANCIAL MANAGEMENT – Payments.

Class No	Description of records	Disposal action
21907	<ul style="list-style-type: none"> • Press clippings from 1937 to July 2005 • speeches and addresses by Justices of the Court and senior court officials such as the Principal and Senior Registrars. <p>(Only includes those speeches provided by Justices of the Court to the Library. Those speeches not provided to the Library may be held in the personal papers of the Justice in chambers).</p>	Retain as national archives
21908	<ul style="list-style-type: none"> • acquisition and maintenance of the High Court library. Includes, but not limited to orders and subscriptions; • routine operational administrative tasks supporting the core business; and • Legal Knowledge Repository and Services activities other than those described in class 21907. 	Destroy 7 years after last action