



Australian Government

National Archives of Australia

Records Authority
2013/00199013

Copyright Tribunal of Australia

Copyright Tribunal Case Management

2013

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INTRODUCTION

The Copyright Tribunal of Australia and the National Archives of Australia have developed this Records Authority to set out the requirements for keeping or destroying records for the core business area of Copyright Tribunal Case Management. It represents a significant commitment on behalf of the Copyright Tribunal to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of the Copyright Tribunal. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders, the agency 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 Copyright Tribunal permission 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 approved by the National Archives of Australia on the basis of information provided by the agency.

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

APPLICATION OF THIS AUTHORITY

1. This Authority should be used in conjunction with the Tribunals Records Authority 2011/00681744 covering core businesses of Tribunal External Relations and Tribunal Management and Statutory Appointments.
2. This Authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the Authority.
 - Where the minimum retention period has expired and the records are not needed for agency business they should be destroyed as authorised in this Authority.
 - Records that have not reached the minimum retention period must be kept until they do.
 - Records that are identified as Retain as National Archives (RNA) are to be transferred to the National Archives of Australia for preservation.
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;
 - General Records Authority (31) For source (including original) records that have been copied, converted or migrated.
4. The Normal Administrative Practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. 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 Records Authority or Authorities, and with AFDA and AFDA Express. The National Archives recommends that agencies develop and implement a Normal Administrative Practice policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop an agency NAP policy is available from the National Archives' website at www.naa.gov.au
5. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom of Information Act 1982* or any other relevant Act must not be destroyed until the action has been completed.
6. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. 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
7. 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 must be accessible for the period of time prescribed in this Authority. The Copyright Tribunal will need to maintain continuing

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

8. In general, retention requirements indicate a minimum period for retention. The Copyright Tribunal 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 Copyright Tribunal believes that its accountability will be substantially compromised because a retention period or periods are not adequate, they should contact the National Archives for review of the retention period.
9. Records coming within 'Retain as national archives' classes in this Authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the National Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under section 27 of the *Archives Act 1983*.
10. Records in the care of agencies should be appropriately stored, managed and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under Section 31 of the *Archives Act 1983*, access arrangements are required for records that become available for public access including those records that remain in agency custody.
11. Appropriate arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives.
12. Advice on how to use this Authority is available from the Copyright Tribunal 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 the 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

AUTHORISATION

RECORDS AUTHORITY 2013/00199013

Person to whom notice of authorisation is given:

Justice Perram
Acting President
Copyright Tribunal of Australia
Level 17 Federal Court of Australia
Queens Square, Sydney 2000

Purpose:

Authorises arrangements for the disposal of records in accordance with Section 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 Copyright Tribunal Case 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 the agency currently responsible for the business documented in the records described.

Authorised by

David Fricker
Director-General
National Archives of Australia

Date of issue:

4 June 2013

COPYRIGHT TRIBUNAL CASE MANAGEMENT

The core business of hearing and determining disputes relating to licences for copyright material in accordance with copyright legislation. Includes making determinations in relation to:

- the amount, manner and distribution of royalty or remuneration payable to the owners of copyright by those wishing to use, perform or broadcast copyright works for purposes such as film making, sound recordings or public performance;
- the amount of royalty or remuneration to be paid to a collecting society, the role of the collecting society and a review of the collecting society's distribution arrangements; and
- applications for new or variations to existing licence schemes including the reasonableness of the scheme and decisions to refuse or fail to grant licences in relation to defined subject matter.

The tasks associated with this core business include:

- handling enquiries;
- receiving and initial assessment of applications;
- monitoring of case progress;
- research or investigation undertaken during operations;
- arranging and conducting mediation, arbitration, conferences (including pre-hearing conferences) and/or hearings;
- providing advice to applicants;
- arranging legal services;
- warrant authorisation or issuing of summonses or notices to produce;
- establishing and managing internal committees related to individual cases;
- referral of cases or matters to higher appeal bodies; and
- finalisation of applications/cases/reviews including notifying applicants and other stakeholders.

The performance of the core business is supported by general administrative tasks such as:

- developing policies, procedures and guidelines;
- developing operational schedules and rosters;
- routine arrangements for hearings, such as room and facility bookings; and
- managing the provision of security or interpreter services.

For committees relating to governance and strategic matters, use AFDA/AFDA Express - STRATEGIC MANAGEMENT.

For security breaches and general security arrangements for premises, use AFDA/AFDA Express - PROPERTY MANAGEMENT.

For financial transactions undertaken by the tribunal, use AFDA/AFDA Express – FINANCIAL MANAGEMENT.

For records relating to managing relationships with other tribunals, government and community stakeholders, including the provision of advice, use Tribunal Records Authority 2011/00681744 – TRIBUNAL EXTERNAL RELATIONS.

For records relating to establishing and managing the administration of the tribunal, including the appointment and terms and conditions of statutory appointees, and the development of tribunal policies, procedures and guidelines, use Tribunal Records Authority 2011/00681744 – TRIBUNAL MANAGEMENT AND STATUTORY APPOINTMENTS.

COPYRIGHT TRIBUNAL CASE MANAGEMENT

Class no	Description of records	Disposal action
61355	<p>The following significant records:</p> <ul style="list-style-type: none"> • tribunal case files (part A only) pertaining to Crown or Commonwealth copyright matters. Includes: <ul style="list-style-type: none"> - pleadings: initial application; - response and request for particulars in response, but only where they define the issues; - documents that identify the parties; - the originating process (applications, writs, petitions etc); - notices of appearances and notices of discontinuance; - documents that record the final orders made by the tribunal and any other orders of the Tribunal creating substantive rights or obligations such as orders for interlocutory injunctions. Excludes orders relating to merely procedural matters; and - reasons for decision. <p>Excludes part B of the tribunal case file.</p> <ul style="list-style-type: none"> • master set/register of tribunal decisions. 	Retain as national archives
61356	Tribunal case files (part A only) not covered by class 61355.	Destroy 15 years after action completed
61357	<p>Records documenting:</p> <ul style="list-style-type: none"> • Tribunal case files (part B only) – correspondence part. • operational schedules and rosters, such as daily hearing schedules, and member schedules and rosters; • provision of interpreter services; and • routine arrangements for hearings, such as room, facility, phone and video conferencing bookings and arrangements. 	Destroy 3 years after action completed
61358	<p>Original documents and items received from applicants to support a case that are not required to be retained as part of the case file which is either:</p> <ul style="list-style-type: none"> • not wanted by the owner; or • unable to be returned to the owner after reasonable efforts have been made for their return. 	Destroy 1 year after reasonable efforts have been made to return the items
61359	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • copyright tribunal case management activities, other than those covered in classes 61355 to 61358. 	Destroy 7 years after action completed