

# State Records Authority of New South Wales

## Disposal Authority: DA43

Approved: 16 February 2000

## Supreme Court of New South Wales

This authority covers records documenting aspects of the function of *the administration of justice*.

## DISPOSAL AUTHORITY

DA no DA43

SR file no 99/0020

Public office Supreme Court of New South Wales

Scope This disposal authority covers records documenting aspects of the function of *the administration of justice*.

Authority This disposal authority is issued under Section 21(2)(c) of the *State Records Act 1998*. It has been approved by the Board of the State Records Authority in accordance with Section 21(3) of the *State Records Act 1998*.

Authorised

David Roberts  
Director  
State Records Authority of New South Wales

16/2/2000  
Date

# How to use the Disposal Authority

## The disposal process

The disposal of State records is a range of processes that includes assessing the value of records for future use, identifying those State records that have continuing value and identifying how soon the remainder can be destroyed or otherwise disposed of. The disposal process can also involve transfer of ownership or custody of records and the alteration of records.

This disposal authority is issued under Part 3 (Protection of State Records) section 21 (2)(c) of the *State Records Act 1998 (NSW)*. The Act provides that records are not to be disposed of without the consent of State Records with certain defined exceptions. These exceptions include an action of disposal which is positively required by law, or which takes place in accordance with a normal administrative practice (NAP) of which State Records does not disapprove. Advice on the State Records Act can be obtained from State Records.

## Purpose

This disposal authority authorises the destruction or other disposal of State records as required by the State Records Act. This authority has been prepared as part of the records disposal program of the agency. Two primary objectives of this program are to ensure that records are kept for as long as they are of value and to enable destruction or other disposal of records once they are no longer of value. State Records decisions take into account both the administrative requirements of the public office in discharging its functional responsibilities and the potential research use of the records by the NSW Government and the public. It is the duty of a public office, in submitting a draft disposal authority for approval, to disclose to State Records any information which affects the retention of the records covered by the authority.

## Using the authority

This disposal authority covers records controlled by the public office and applies only to the records or classes of records described in the authority. The authority is to be used to sentence records. Sentencing is the examination of records in order to identify the disposal class or series to which they belong. This process enables the sentencing officer to determine the appropriate disposal action for the records. Advice on sentencing can be obtained from State Records.

Where the format of records has been changed this does not prevent the disposal classes or series from being used to sentence records which perform the same function. Where the method of recording the information changes (for example, from a paper-based system to an electronic one), this authority can still be used to sentence records as long as the records document the same function/s. The information must be accessible for the periods prescribed in the classes. Where a record is copied, either onto microform or digitally imaged, the original should not be disposed of without authorisation (see also the *General Disposal Authority – Records of short term value that have been imaged*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technologically dependent records is available for the periods prescribed.

A minimum retention period in the disposal authority of more than 25 years does not imply that a *still in use determination* has been approved by State Records (see Part 4, Section 28 of the State Records Act, 1998).

## Disposal

Records that have been identified as being required as State archives should be stored in controlled environmental conditions. Control of these records should be transferred to State Records at the end of the nominated retention period.

Records that have been identified as being authorised for destruction may only be destroyed once a public office has ensured that all requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office may keep records for a longer period if necessary. Reasons for longer retention can include legal requirements, administrative need, and government directives. A public office *must not* dispose of any records where the public office is aware of possible legal action where the records may be required as evidence. Once all requirements for retention have been met, destruction of records should be carried out in a secure and environmentally sound way. Relevant details of the destruction should be recorded.

In some cases State Records may withhold authorisation for the disposal of a particular disposal class or series or possibly a whole function or activity. This would be used where records have been identified as having some immediate short term requirements for retention such as pending legal action. These records will need to be re-appraised at the end of a designated period. This re-appraisal process is necessary as the circumstances which instigate the need for the records to be retained for a longer period may also affect the 'value' of the records.

Regardless of whether a record has been authorised for destruction or is required as a State archive, a public office or an officer of a public office must not permanently transfer possession or ownership of a State record to any person or organisation without the explicit authorisation of State Records.

## Custody

The custody column in the disposal authority is designed to assist public offices in identifying storage requirements for records prior to destruction or transfer. The directions in this column are recommendations only and are *not* mandatory. The type of information includes directions on how long records should be retained in the office and how long they should be kept in off-site/ secondary storage. Specific requirements for retention such as legislative requirements or legal directives may also be noted for reference.

## Administrative change

This disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable disposal authority that is less affected by administrative change. The movement of specified functions between branches or units within the public office does not require the authority to be resubmitted to State Records for approval. However, when functions move from one public office to another State Records should be notified. The public office that inherits the new function will need the approval of State Records to use any existing disposal authority to sentence the records that document the function/s.

## **Amendment and review of this authority**

State Records must approve any amendment to this authority. Public offices that use the authority should advise State Records of any proposed changes or amendments to the authority.

State Records recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Records may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements or procedures which are likely to affect the value of the records covered by this authority.

In all cases the process of review will involve consultation between State Records and the public office. If the process of review reveals that this authority requires amendment, the necessary amendments will be made and authorised.

## **Contact Information**

State Records  
Level 3, 66 Harrington Street  
Sydney NSW 2000  
Telephone: (02) 9237 0120  
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**Functional Disposal Authority  
Supreme Court of New South Wales**

DA No: DA43

Dates of coverage: 1800+

No	Function/Activity	Description	Disposal Action	Custody*
1.0	<b>EQUITY DIVISON</b>			
1.1	Equity Suit Books c.1950-1980	The Suit Books provide a record of all documents filed in Equity Suits; they therefore constitute an index to Equity suit papers.	Required as State archives.	
1.2	Equity Company Books (no date)	The Company Books provide a record of all documents filed in company matters in Equity.	Required as State archives.	
1.3	Books Recording Lodgement of Documents 1889-1892	These two volumes are unnumbered and untitled. They appear to be either suit or company books as they record the lodgment of documents for matters which are not criminal. The case numbers run consecutively from the first volume to the second.	Required as State archives.	
1.4	Statistical Register No.4., 1965-1978	This register records on a daily basis statistics for the Equity Division, showing entries and tallies for ; date; statements of claim; appearances; statements of defence; set downs; motions; summonses; orders certificates of taxation; bills of costs taxation; bills of costs taxed; appeals; and adoptions - notices of applications and orders.	Required as State archives.	

\* see *How to use the disposal authority*

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No	Function/Activity	Description	Disposal Action	Custody*
1.5	Index to Plaintiffs in Equity suits and Matters, 1901-08	Details recorded include; number; plaintiff or title of suit; and how suit or matter instigated.	Required as State archives.	
1.6	Indexes to Defendants in Equity Suits and matters c.1939-66	These volumes provide an index to defendants appearing in equity suits and matters. The first volume is undated but appears older than the remaining three volumes which cover the years 1939-66	Required as State archives.	
1.7	Entry Book No.178, 1969-70	This entry book records case details and orders made in Equity and signed by the Registrar.	Required as State archives.	
1.8	Adoption Proceedings - Equity Division 1924-1972	These files contain: Summons, Affidavits annexing original birth records, consents of natural parents, background of adoptive parents, natural parents, social worker reports	Required as State Archives.	
1.9	Adoption Proceedings - Equity Division 1973+	These files contain: Summons, Affidavits annexing original birth records, consents of natural parents, background of adoptive parents, natural parents, social worker reports	Required as State Archives.	
1.10	Adoption Proceedings - Equity Division - Child Welfare Index of Supreme Court Orders	Used to locate the record of an adoption order. Information listed are date of order, name of child prior to adoption, series number, cross reference to birth certificate, file number.	Required as State archives.	

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No	Function/Activity	Description	Disposal Action	Custody*
2.0	<b>PROBATE</b>	A grant of probate is made by the Court to enable the executor to access the assets of an estate and distribute them in accordance with the will. Once probate has been granted a copy of the will is available to members of the public.		
2.1	Probate packets/files - Series 4 (Part 1) 1891-1928	Each of these envelopes contain the deceased person's original will plus accompanying documents such as:- Summons for probate or Administration, inventory of assets of the estate, affidavit of death, affidavit Sworn by the executor etc.	Required as State archives.	
2.2	Probate packets/files - Series 4 (part 2) 1928-1940	Each of these envelopes contain the deceased person's original will plus accompanying documents such as:- Summons for probate or administration, inventory of assets of the estate, affidavit of death, affidavit Sworn by the executor etc.	Required as State archives.	
2.3	Probate packets/files - Series 4 (part 3) 1940- 1985	Each of these envelopes contain the deceased person's original will plus accompanying documents such as:- Summons for probate or administration, inventory of assets of the estate, affidavit of death, affidavit Sworn by the executor etc.	To be retained as State Archives	
2.4	Probate files 1986+	Each of these envelopes contain the deceased person's original will plus accompanying documents such as:- Summons for probate or administration, inventory of assets of the estate, affidavit of death, affidavit Sworn by the executor etc. This series includes Probate Series 5 and probate records created from 1986 onwards.	Required as State archives.	

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No	Function/Activity	Description	Disposal Action	Custody*
2.5	Grant of Probate Register 3 <sup>rd</sup> Series, 1883-1884	This volume contains manuscript entries recording grant of probate. Details recorded include; number, name of deceased; residential suburb and occupation of deceased; date of death; name of executor/s; amount of estate; and date of grant.	Required as State archives.	
2.6	Probate and Administration Registers - Series 4 1890-1985	This series records in numerical order the granting of probate and administration in accordance with section 152 of the Wills, Probate and Administration Act, 1898. The grants recorded in these volumes run from 1-632269. No.1-485719 record; number, name of deceased, residence; occupation; date of death; ate filed; date granted; to whom granted; amount; due date of filing accounts; date of filing; order; remarks. From 485720-632269 details recorded include; number; name of deceased; value of estate; date of death; date granted; accounts details; to whom granted; and address; and remarks. From 1971 onwards these registers are loose leaf books which contain either a carbon copy or photocopy of the letter granting probate and sometimes a photocopy of the Will . As with the above volumes, these books provide the only index linking the Probate Packets with the Estate Account Files as the passing of accounts details were required to be entered in these books.	Required as State archives.	

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No	Function/Activity	Description	Disposal Action	Custody*
2.7	Alphabetical Probate Indexes 1800-c.1980	These records provide an alphabetical index to the Probate Packets and Will Books. This series consists of volumes dated from 1800 -1946 and then a variety of volumes and loose leaf books containing handwritten entries, typed lists, and photocopies from the microfiche of the Wills book indexes. Details essentially include number; name; residence; date of death; and instrument. Duplicate indexes have also been created.	Master/official copy of each index required as State archives.	
2.8	Wills Index Series 1-3, 1800-80	These original volumes record; number, name; residence; date of death; and instrument.	Required as State archives.	
2.9	Public Curator's Index, 1891-1902	This rebound volume contains handwritten copies of wills and the curator's orders	Required as State archives.	
2.10	Will book, 1800-14	This volume contains handwritten (original) handwritten copies of wills.	Required as State archives.	
2.11	Probate and Administration Books 1985+	These books record in numerical order the granting of probate and administration for probate records from 1985 onwards.	Required as State archives.	
3.0	<b>FAMILY LAW</b>			
3.1	Process Books Relating to Decree Absolute 1933-1976	A list of Decree Absolute by date order	Required as State archives.	

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No	Function/Activity	Description	Disposal Action	Custody*
3.2	Alphabetical Listing of Family Law Applications 1930-1976	This listing details the name of applicant, name of defendant and file number.	Required As State archives.	
3.3	Decrees Absolute Letterbook No 2, 1924-1929	This book contains letterpress copies of decrees absolute	Required as State archives.	
3.4	Divorce Court Process Books 1885-1950	These volumes provide a record of all causes instigated in the Divorce jurisdiction between 1885 and 1950.	Required as State archives.	
3.5	Petitioners Registers, 1929-1932, 1935-1938	These volumes provide an alphabetical index to the petitions lodged in the Divorce Court. The details provided include number, year, petitioner, respondent and co-respondent. This series indexes series 3.6 listed below.	Required as State archives.	
3.6	Divorce Court Process Books, 1885-1950	These volumes provide a record of all causes instigated in the Divorce Jurisdiction between 1885-1950. This series is indexed by series 3.5.	Required as State archives.	
4.0	<b>COMMON LAW</b>			

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No	Function/Activity	Description	Disposal Action	Custody*
4.1	Process Books, Nos. 1-20, 142-158, 1963-1987	<p>These volumes provide a record of all causes instituted in the Common Law jurisdiction. Details recorded include; number, plaintiff, plaintiff's solicitor, issued, defendant; defendant's solicitor, appearance; defence; reply; set down; verdict or order; judgment and remarks.</p> <p>A new numbering system was instituted in 1972 so that whereas Nos. 142-158 are dated 1963-72, Nos.1-20 cover the years 1972 to 1987</p>	Required as State archives.	
4.2	Term Process Book 1961-1970	This Common Law volume is a register of causes instigated in the Full Court. Details include; number; date of filing; names of applicant and respondent; applicant's solicitor; nature of proceedings; before whom heard; date of hearing; and order made and any subsequent action.	Required as State archives.	
5.0	<b>COMMERCIAL LIST</b>			
5.1	Register of Proceedings in the Commercial List 1973-77	Information given includes; number of proceedings; plaintiff; plaintiff's solicitor; defendant; defendant's solicitor; date of entry in Commercial List; date of notice to set down for trial; and remarks. There is also an alphabetical case name index located at the front of this volume.	Required as State archives.	
6.0	<b>ADMINISTRATIVE LAW</b>			

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No	Function/Activity	Description	Disposal Action	Custody*
6.1	Administrative Law Register (no date)	This volume provides an index to cases instituted in the Administrative Law Jurisdiction. Details include name and case number.	Required as State archives.	
7.0	<b>COURT OF APPEAL</b>			
7.1	Term Books (Causes and Matters in Banco), 1955-1975	These registers record; number; matter or suit; nature of motion etc; judge; appellant; appellant's attorney; date set down; and result.	Required as State archives.	
7.2	Register of Appeals to the Court of Appeal, 1972-1977	Entries are sparse and outline information on some cases that proceed to the Court of Appeal.	Required as State archives.	
8.0	<b>LAND AND VALUATION COURT</b>			
8.1	Land and Valuation Court Registers of Cases, 1955-1977	These volumes list in chronological order the matters heard in the Land and Valuation Court.	Required as State archives.	

\* see *How to use the disposal authority*