

State Records Authority of New South Wales

Functional Retention and Disposal Authority: FA310

This authority covers records documenting the function of industrial relations, in particular the monitoring of wages, employment rights, obligations and conditions in NSW

This functional retention and disposal authority is approved under section 21(2)c of the *State Records Act 1998* following prior approval by the Board of the State Records Authority of New South Wales in accordance with section 21(3) of the Act.

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Functional Retention and Disposal Authority

Authority no FA310

SR file no 10/0038

Scope

This functional retention and disposal authority covers records documenting the function of industrial relations, in particular the monitoring of wages, employment rights, obligations and conditions in NSW from c.1970 onwards.

Public office

NSW Industrial Relations

Approval date

Alan Ventress
Director
State Records Authority of New South Wales

19/08/2011
Date

Revised version

Geoff Hinchcliffe
Director
State Records Authority of New South Wales

28/10/2014
Date

Amended to include coverage for records relating to the ratification of and compliance with international requirements and obligations (entry 1.2.8) and the management of public sector industrial relations (entries 1.10.1 to 1.10.7)

About the Functional Retention and Disposal Authority

Purpose of the authority

The purpose of this functional retention and disposal authority is to identify those records created and maintained by NSW public offices which are required as State archives and to provide approval for the destruction of certain other records created and maintained by NSW public offices, after minimum retention periods have been met.

The approval for disposal given by this authority is given under the provisions of the *State Records Act 1998* only and does not override any other obligations of an organisation to retain records.

The retention and disposal of State records

The records retention and disposal practices outlined in this authority are approved under section 21(2)(c) of the *State Records Act 1998 (NSW)*. Part 3 (Protection of State Records) of 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.

The authority sets out how long the different classes of records generated by an organisation must be kept to meet its legal, operational and other requirements, and whether the records are to be kept as State archives. The State Records Authority ('State Records') reviews and approves organisations' retention and disposal authorities under the State Records Act.

This authority is the product of an appraisal process conducted in accordance with State Records' *Standard on the appraisal and disposal of State records*. It is the duty of a public office, in submitting a draft functional retention and disposal authority for approval, to disclose to State Records any information which affects the retention of the records covered by the authority.

State Records' decisions take into account both the administrative requirements of public offices in discharging their functional responsibilities and the potential research use of the records by the NSW Government and the public. One of State Records' functions is to identify and preserve records as State archives. These are records which document the authority and functions of Government, its decision-making processes and the implementation and outcomes of those decisions, including the nature of their influence and effect on communities and individual lives. Criteria for the identification of State archives are listed in *Building the Archives: Policy on records appraisal and the identification of State archives*. The Policy also explains the roles and responsibilities of State Records and of public offices in undertaking appraisal processes and disposal activities.

Implementing the authority

This functional retention and 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 should be implemented as part of the records management program of the organisation. Two primary objectives of this program are to ensure that records are kept for as long as they are of value to the organisation and its stakeholders and to enable the destruction or other disposal of records once they are no longer required for business or operational purposes.

The implementation process entails use of the authority to sentence records. Sentencing is the examination of records in order to identify the disposal class in the authority to which they belong. This process enables the organisation to determine the appropriate retention period and disposal action for the records. Advice on sentencing can be obtained from State Records. See *Implementing a retention and disposal authority*.

Where the format of records has changed (for example, from paper-based to electronic) this does not prevent the disposal decisions in the authority from being applied to records which perform the same function. The information contained in non paper-based or technology dependant records 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 Retention and Disposal Authority – Imaged records*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technology dependent records is available for the periods prescribed.

Disposal action

Records required as State archives

Records which are to be retained as State archives are identified with the disposal action 'Required as State archives'. Records that are identified as being required as State archives should be stored in controlled environmental conditions and control of these records should be transferred to State Records when they are no longer in use for official purposes.

The transfer of control of records as State archives may, or may not, involve a change in custodial arrangements. Records can continue to be managed by the public office under a distributed management agreement. Public offices are encouraged to make arrangements with State Records regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to State Records' control should be a routine and systematic part of a public office's records management program. If the records are more than 25 years old and are still in use for official purposes, then a 'still in use determination' should be made.

Records approved for destruction

Records that have been identified as being approved for destruction may only be destroyed once a public office has ensured that all other requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office should 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 (including legal discovery, court cases, formal applications for access) 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. See *Destruction of records: a practical guide*.

Organisations should review functional retention and disposal authorities regularly to ensure that they remain relevant as the organisation's functions and activities, operating environment and requirements for records change. Retention requirements may change over time. This can occur when:

- business needs or practices change
- new laws, regulations or standards are introduced
- new technology is implemented
- government administration is restructured and functions are moved between entities, or
- unforeseen or new community expectations become apparent.

State Records recommends that organisations check any functional retention and disposal authorities more than 5 years old to ensure that the retention periods and disposal actions remain relevant.

Regardless of whether a record has been approved 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 approval of State Records.

Administrative change

This functional retention and disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable retention and 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 the public office that inherits the new function should contact State Records to discuss use of any existing retention and disposal authority approved for use by a predecessor organisation.

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 should be made and approved.

Contact Information

State Records
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Functional Retention and Disposal Authority
Industrial relations - monitoring of wages, employment rights, obligations and conditions

Authority number: FA310

Dates of coverage: c.1970+

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Functional Retention and Disposal Authority
Industrial relations - monitoring of wages, employment rights, obligations and conditions
(NSW Industrial Relations)

Authority number: FA310

Dates of coverage: c.1970+

No	Function/Activity	Description	Disposal Action
1.0.0	INDUSTRIAL RELATIONS	<p>The function of developing and implementing industrial relations policy and regulating employers. Includes:</p> <ul style="list-style-type: none"> • managing public sector industrial relations • providing advice on industrial relations policy and regulation • educating employees and employers • handling complaints, inspecting workplaces, investigating and prosecuting employers • licensing entertainment industry representatives • determining public and local holidays and processing applications from businesses for permission to trade on restricted trading days. <p>See General Retention and Disposal Authority <i>Administrative records</i> COMMITTEES for records relating to industrial relations committees</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> COMMUNITY RELATIONS - Conferences for records relating to arranging or attending conferences such as the Industrial Relations Society (IRS) State Conference</p>	
1.1.0	Providing advice	<p>The activity of providing advice on industrial relations issues, making representations in industrial relations cases and establishing or making submissions to official inquiries.</p> <p>See INDUSTRIAL RELATIONS - Managing public sector industrial relations for advice provided in relation to public sector employees.</p> <p>See General Retention and Disposal Authority <i>Royal Commissions, Special Commissions of Inquiry, Commissions of Inquiry and Inquiries established by Letters Patent or Ministerial Directive</i> for records relating to setting up and conducting Ministerial inquiries into industrial relations matters.</p>	

Industrial relations - monitoring of wages, employment rights, obligations and conditions

Authority number: FA310

Dates of coverage: c.1970+

No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Providing advice</i>			
		<p>See General Retention and Disposal Authority <i>Administrative records</i> GOVERNMENT RELATIONS - Advice for records relating to providing advice to the Minister or other government organisations on industrial relations issues, excluding that relating to a particular case.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> GOVERNMENT RELATIONS - Inquiries for records relating to the organisation's participation in Parliamentary inquiries, including submissions.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> LEGAL SERVICES - Advice for records relating to the receipt of legal advice.</p>	
1.1.1		Records relating to the making of representations and submissions by the Government to industrial relations cases in State and Federal courts and tribunals. Records include requests to intervene, applications to court/tribunal to represent the Government; submissions (from parties or to court/tribunal including exhibits and associated approvals), terms of reference, ministerial briefs, speaking notes, background information.	Required as State archives
1.2.0	Developing and implementing policy	<p>The activity of developing and implementing industrial relations policy. Includes developing and implementing policy, establishing programs to support policy implementation, conducting research and managing the NSW Government's involvement with international conventions.</p> <p>See INDUSTRIAL RELATIONS - Managing public sector industrial relations for records relating to the development and implementation of public sector industrial relations policy.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> GOVERNMENT RELATIONS - Advice for records relating to advice given to the Minister, Parliament or other government agencies, including international intergovernmental organisations</p>	
1.2.1		Records relating to the production of summary reports of developments in agreement making and enterprise bargaining processes. Records include summary	Required as State archives

Industrial relations - monitoring of wages, employment rights, obligations and conditions

Authority number: FA310

Dates of coverage: c.1970+

No	Function/Activity	Description	Disposal Action
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INDUSTRIAL RELATIONS - Developing and implementing policy

		reports, developmental records, background research.	
1.2.2		Records relating to developing and revising NSW Government industrial relations policy. Records include requests for new policy, options papers, approvals of option, drafts, approvals and final versions of policy.	Required as State archives
1.2.3		Records documenting the outcomes of evaluations of existing programs designed to give effect to the NSW Government's industrial relations policy, such as the taxi industry compliance program or an education program. Includes evaluation reports.	Required as State archives
1.2.4		Records documenting the conduct of evaluations of existing programs designed to give effect to the NSW Government's industrial relations policy, such as the taxi industry compliance program or an education program. Records include surveys, staff feedback.	Retain minimum of 10 years after last action, then destroy
1.2.5		Records relating to proposing new programs to give effect to the NSW Government's industrial relations policy. Records include briefings with the Minister's office, research required to support a proposal, projected budgets, feasibility studies, draft program plans and outlines, Ministerial and executive decisions approving or rejecting a proposal and outlining reasons.	Required as State archives
1.2.6		Records relating to the outcomes of industrial relations research projects. Records include research data, such as longitudinal time series survey data on work in NSW, and final research reports.	Required as State archives
1.2.7		Records relating to the establishment and conduct of industrial relations research projects. Records include draft and final approved scope of research, approvals from executive and Minister, progress reports, draft reports on findings.	Retain minimum of 10 years after last action, then destroy

Industrial relations - monitoring of wages, employment rights, obligations and conditions

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Developing and implementing policy</i>			
1.2.8*		Records relating to the ratification of and compliance with international industrial relations requirements, such the International Labour Organization (ILO) conventions and recommendations. Includes research, stakeholder consultation, analysis, approvals, final submissions and reports, appointment of technical representatives, and formal advice and proceedings.	Required as State archives
1.3.0	Educating and informing employers and employees	The activity of educating and informing employers and employees about industrial laws, policies, awards and the industrial relations system. Includes answering enquiries, giving presentations, developing and running seminars and workshops, developing and running training courses, organising events and publishing educational information in all formats and media, including online and interactive. See INDUSTRIAL RELATIONS - Processing complaints for records relating to enquiries involving specific complaints.	
1.3.1		Records relating to providing information regarding and raising awareness of workplace entitlements/obligations for employees, employers and other parties. Records include registers of requests, referrals, records documenting research into individual requests, responses to enquirers, records documenting the conduct of educational competitions.	Retain minimum of 7 years after last action, then destroy
1.3.2		Records relating to the provision of award information to the public. Records include award variation files, wage summary sheets compiled before awards are gazetted.	Retain minimum of 7 years after last action, then destroy
1.3.3		Records relating to developing training courses to assist employers and employees in understanding and complying with workplace relations laws. Records include course outlines, training handouts.	Retain minimum of 7 years after superseded, then destroy

* Entry 1.2.8 added October 2014

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Authority number: FA310

Dates of coverage: c.1970+

No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Educating and informing employers and employees</i>			
1.3.4		Records relating to the conduct of training courses to assist employers in understanding and complying with workplace relations laws. Records include advertisements, registrations, records of course administration, participant feedback.	Retain minimum of 2 years after last action, then destroy
1.3.5		Published information resources developed to advise or inform employees and employers on workplace entitlements and obligations. Includes brochures, fact sheets, web pages, alerts, newsletters, email subscription services, bulletins, posters.	Required as State archives
1.3.6		Information about other organisations' workplace services, including the Industrial Relations Commission and Fair Work Australia. Includes brochures, fact sheets, web pages, alerts, newsletters, email subscription services, bulletins, posters.	Retain minimum of 2 years after superseded, then destroy
1.4.0	Exempting businesses from trading hours provisions	The activity of processing applications from businesses for permission to trade on restricted trading days, e.g. in accordance with the <i>Shop Trading Act 2008</i> or the <i>Shops and Industries Act 1962</i> . See General Retention and Disposal Authority <i>Administrative records</i> LEGAL SERVICES - Litigation for records relating to appeals against decisions to reject applications for permission to trade on a restricted trading day.	
1.4.1		Records relating to the determination of applications for permission to trade on a restricted trading day. Records include applications, determinations or decisions, notifications to applicants on the outcome (i.e. approval or rejection).	Retain minimum of 10 years after application determined, then destroy
1.5.0	Licensing	The activity of licensing agents, individuals or organisations engaged in or undertaking certain industries or occupations. See INDUSTRIAL RELATIONS - Investigating workplaces for records relating	

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Licensing</i>			
		to issuing compliance directions. See INDUSTRIAL RELATIONS - Processing complaints for records relating to processing complaints against industry representatives and employers. See General Retention and Disposal Authority <i>Administrative records</i> LEGAL SERVICES - Litigation for records relating to prosecution for non-compliance.	
1.5.1	Date range: 1989+	Entertainment industry licence registers (1989+).	Required as State archives
1.5.2		Records relating to approved applications for entertainment industry licences. Records include applications, advice to applicants, payment of fees, lodgement of bond for trust accounts, records documenting issuing of new or replacement licences, records documenting suspension and cancellation of licences, bond registers.	Retain minimum of 7 years after licence cancelled or expired, then destroy
1.5.3		Records relating to rejected applications for entertainment industry licences. Records include applications, advice to applicants, records of internal reviews of decisions, records of appeals.	Retain minimum of 2 years after matter and all appeals settled, then destroy
1.5.4		Records relating to the development and issue of codes of ethics for the entertainment industry. Records include draft codes of ethics, revisions and amendments, records of consultation processes, gazettal notices.	Retain minimum of 10 years after superseded, then destroy
1.5.5	Date range: 1950-2004	Hairdresser licence cards (1950-2004).	Required as State archives
1.6.0	Processing complaints	The activity of processing employee complaints regarding alleged breaches of industrial laws prior to conducting formal investigations or where no formal investigations occur, and processing complaints regarding shop trading and	

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Processing complaints</i>			
		against entertainment industry representatives. See INDUSTRIAL RELATIONS - Investigating workplaces for records relating to investigations arising from complaints.	
1.6.1		Records that provide a summary of complaints regarding breaches of industrial laws (e.g. underpayment of wages or entitlements, unpaid wages or allowances and issues with leave entitlements), shop trading and against entertainment industry representatives processed by the agency. Records include registers (including register of cases in Compliance Information Management System (CIMS)), periodic reports to management.	Required as State archives
1.6.2		Records relating to processing complaints regarding any breach of industrial laws (e.g. underpayment of wages or entitlements, unpaid wages or allowances and issues with leave entitlements), as well as complaints regarding shop trading and against entertainment industry representatives. Records include complaint files, complaint forms and supporting documentation, referrals to other authorities, preliminary assessment forms, workplace assessment reports determining action that ought to occur or whether penalty applies, notices to employers, advice to applicants and employers.	Retain minimum of 7 years after last action, then destroy
1.7.0	Inspecting workplaces	The activity of conducting workplace inspections. Includes campaigns targeting specific industries or geographic areas.	
1.7.1		Records relating to workplace inspection planning. Includes records relating to the drafting and review of workplace inspection campaign plans and inspection schedules.	Retain minimum of 5 years after superseded, then destroy
1.7.2		A sample of records relating to campaign-based workplace inspections selected in accordance with an implementation plan agreed between State Records NSW and the public office.	Required as State archives

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Inspecting workplaces</i>			
1.7.3		Records relating to campaign-based workplace inspections not included in the sample required as State archives. Records include correspondence with employers, arrangements for compliance visits, inspection notes, final workplace assessment reports, including findings and recommendations, caution letters to employers.	Retain minimum of 5 years after last action and selection of sample as per 1.7.2, then destroy
1.8.0	Investigating workplaces	<p>The activity of conducting a formal investigation/audit of a workplace arising from either an unresolved complaint or breaches identified in an inspection campaign. Includes issuing notices to the employer to produce records, case management of the investigation, and correspondence with the employer.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> LEGAL SERVICES - Litigation for records relating to prosecuting employers who elect to challenge a penalty notice or compliance direction or fail to respond to an infringement notice.</p>	
1.8.1		Records that provide a summary of workplace investigations. Includes register of cases in Compliance Information Management System (CIMS).	Required as State archives
1.8.2		Records relating to workplace investigations. Records include investigation case files containing notices issued to employers to produce time and wages records, advice provided by case managers to inspectors, case meeting records, correspondence with employers.	Retain minimum of 10 years after last action, then destroy
1.8.3		Records relating to issuing penalty infringement notices or compliance directions. Records include penalty infringement notices, compliance directions and associated correspondence with employers.	Retain minimum of 10 years after last action, then destroy
1.9.0	Determining public and local holidays	The activity of determining public and local holidays within NSW.	
1.9.1		Records relating to the determination of public and local holidays, including special holidays such as for the APEC meeting in Sydney. Records include representations,	Required as State

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Managing public sector industrial relations</i>			
		e.g. from councils, briefing notes, gazettal notices.	archives
1.10.0*	Managing public sector industrial relations	The activity of managing public sector industrial relations. Includes the development of public sector wide industrial relations policy, procedures and guidelines and managing public sector industrial issues and disputes.	
1.10.1		Records relating to the negotiation of awards, agreements and determinations governing public sector employees remuneration and conditions of employment. Records include final versions of industrial awards, agreements and determinations, and any variations, minutes of meetings or consultation processes, and correspondence relating to the negotiation of terms and conditions.	Required as State archives
1.10.2		Records relating to the provision of industrial relations advice and assistance to agencies that impacts on public service wide or specific sector wide (e.g. health, education, transport) policies, reforms or changes to practices. Includes requests, responses, correspondence with the agencies.	Required as State archives
1.10.3		Records relating to the provision of industrial relations advice and assistance to agencies that does not impact on public service wide or specific sector wide policies, reforms or practices. Includes requests, responses, correspondence, copies of industrial decisions and advice provided to agencies on routine industrial relations or advocacy matters.	Retain minimum of 10 years after action completed, then destroy
1.10.4		Records relating to developing and revising public sector policy and reforms. Records include requests for new policy, options papers and approvals, draft versions of policies and plans formally circulated for comment, notes of meetings or consultation reports, approvals and final versions of policies and plans.	Required as State archives
1.10.5		Records relating to the outcomes of public sector industrial relations projects such as research and workforce skilling projects. Records include original or unique	Required as State

* Entries 1.10.1 to 1.10.7 added October 2014

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No	Function/Activity	Description	Disposal Action
<i>INDUSTRIAL RELATIONS - Managing public sector industrial relations</i>			
		research data and final research reports.	archives
1.10.6		Records relating to the establishment and conduct of public sector industrial relations projects such as research and workforce skilling projects. Records include draft and final approved scope of research, approvals from executive and Minister, progress reports, draft reports on findings.	Retain minimum of 10 years after action completed, then destroy
1.10.7		Records relating to the development and establishment of policies, procedures and guidelines for the management and administration of public sector employment and industrial relations matters. Records include approved final versions or updates of relevant sections of the NSW Personnel Handbook (or to its equivalent) or issued directives such as Departmental Circulars and Premier's Memoranda and records of associated research, stakeholder consultation, approvals and final submissions.	Required as State archives