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THE AUSTRALIAN RECORD RETENTION MANUAL 2009 Edition

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FOREWORD

The purpose of the Australian Records Retention Manual (ARRM) is to assist Records Managers and Administrators understand the elements of a Record Retention System and proceed with the successful implementation and ongoing control of the system.

The ARRM is designed to assist organisations to develop their own retention and disposal schedules for all classes of records generated and received by an organisation in its day-to-day business activities.

The range of material covered in this edition continues to grow. There are now references to over 2,000 individual pieces of legislation listed in the **List of Laws** section of the manual (**Section 15**). However, during the year several hundred changes have been made to the existing laws contained in this edition of the manual. To see at a glance which laws have been affected please see **Section 16: Changes to Laws Since the Last Edition**. This section contains references to all new additions, laws that have been repealed or revoked and the laws that now replace them. This section also lists some of the more significant changes to legislation. This includes laws that have been renamed, or had sections relating to record keeping added to the legislation. Consequently the main indexes have also been amended.

However it should be noted that several other sections in this manual have been revised. This includes:

- **Section 5: Standards and Benchmarks**
- **Section 8: Australian Record Retention Schedule**
- **Section 8.3: Record Retention Schedules (by Record Series) and**
- **Section 9: Specific Records Groups**

The publishers would like to thank those people who have taken the time to make suggestions on the layout and content of the manual, and we look forward to hearing from many more of you this year. If you have any comments or suggestions for future editions please send an email to arrm@iea.com.au, we shall look forward to hearing from you.

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GLOSSARY OF TERMS

Definitions taken from (unless otherwise stated):

Australian Standard AS 4396: 1996

Australian Standard AS/ISO 15489: 2001

DIRKS – A Strategic Approach to Managing Business Information, Glossary. Canberra, National Archives of Australia, September 2001

GDA for Administrative Records, SRO April 2003

National Archives of Australia: Electronic Records Bibliography; May 2003

State Records Commission Principles and Standards 2002 published in the Western Australian Government Gazette, Tuesday, 5th March 2003 No 38

State Records NSW, Glossary

Access: The right, opportunity, or means of finding, using or retrieving information.

Accountability: The principle that individuals, organisations and the community are responsible for their actions and may be required to explain them to others. *AS ISO 15489 Part 1 Clause 3.2*

Accurate records: Records must accurately reflect what was communicated, decided or done (or not done). That is, the record's content, context and structure can be trusted as a true and accurate representation of the transactions, activities or facts that they document and can be depended upon in the course of subsequent use. *AS4390, Part 3, Clause 5.3*

Active records: Records in frequent use, regardless of their date of creation, required for current business relating to the administration or function of the agency. Such records are usually maintained in office space and equipment close to hand. *State Records NSW, Glossary*

Activity: The major tasks performed by an organisation to accomplish each of its functions. An activity should be based on a cohesive grouping of transactions producing a singular outcome. *State Records NSW, Glossary*
See also **Function** and **Transaction**.

Adequate records: Records should be adequate for the purposes for which they are kept. Thus, a major initiative will be extensively documented, while a routine administrative action can be documented with an identifiable minimum of information. There should be adequate evidence of the conduct of activity to be able to account for that conduct. *AS4390, Part 3, Clause 5.3*

Administrative records: Records that are created to document and support the operational activities of the agency which include administration of finance, human resources, equipment and other facilitative operations. *Queensland State Archives*

Appraisal: The process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, in order to meet business needs, the requirements of organisational accountability and community expectations. *AS 4390, Part 1 Clause 4.3*

Archives/ Archival Records (See Sections 6 and 7):

- Those records that are appraised as having continuing value and that have been selected for permanent retention. *AS4390, Part 1, Clause 4.5*
- Those records that are appraised as having continuing value. Traditionally the term has been used to describe records no longer required for current use which have been selected for permanent preservation. Also referred to as permanent records.
- The place (building/room/storage area) where archival material is kept.
- An agency (or part of an agency) responsible for appraising, acquiring, preserving and making available archival material. *Ellis (ed), Keeping Archives, p. 463*

Archiving: The process of transferring inactive records from current storage areas to a repository for long-term storage, preservation and access.

Audit: The periodic process of checking that operations are carried out in accordance with documented procedure (see **Section 7.4.6**).

Business Activity: An umbrella term covering all the functions, processes, activities and transactions of an organisation and its employees. Includes public administration as well as commercial business.

Capture: A deliberate action that results in the registration of an item into a recordkeeping system. In some electronic document management systems this process works in conjunction with the creation of the record. *AS 4390 Part 1, Clause 4.7*

Certification: The process of obtaining annual compliance signatures from persons having defined responsibilities in respect to procedure (see **Section 7.4.6**).

Classification: The process of systematic and consistent application of schemes based on business activities. It also covers determining document or file naming conventions, user permissions and security restrictions on records.

Compliance: Ensuring that the requirements of laws, regulations, industry codes and organisational standards are met.

SECTION 1: WHAT IS A RECORD?

We keep business records for a number of reasons. Every organisation regardless of its size, creates, receives and uses records (both paper based and electronic / digital) in relation to business activities on a daily basis. These "records" form the framework around which an organisation conducts its business, complies with regulatory requirements and can provide necessary accountability of business activities. **The record, subject to a test of reliability, is proof of how things were at any given point in time.**

According to the AS/ISO 15489 a record is:

"Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transactions of business."

Whilst the National Archives of Australia defines a record as:

- "that which is created and kept as evidence of agency or individual functions, activities and transactions"

and it must also:

- "To be considered evidence a record must possess content, structure and context and be part of a record keeping system."

The authors wish to acknowledge that whenever the term "Record" as used in the context of this manual we are referring to the definition as given by the AS/ISO 15489.

Electronic Records (Included in this term are "Digital" Records):

Any record created or stored electronically. Included in this term are those records that are "born digital" as well as those records that have been scanned into an electronic record format and stored on "the system". Within this category of record are e-mails, interactive messages (for example MSN Messaging) and any SMS text messages which are sent and received as part of a business transaction. These kinds of electronic records should be subject to the same retention and disposal schedules as the rest of the electronic and paper based records managed by an organisation.

The content, context and structure of electronic records, especially emails, are essential in discovery proceedings. For example, keeping emails in their original form with minimal tampering or alteration will add to the credibility of electronic evidence.

Paper Based Records:

Are those records that have been sent or received as part of a business transaction, and includes correspondence, memos, statements etc. It also includes those records that have been created electronically and a paper copy has been printed out for "file" or circulation and includes items such as reports and copies of correspondence.

SECTION 3: WHAT IS RECORDS MANAGEMENT?

“Records management is the systematic control of recorded information from creation to final disposal” (1)

Records Management follows a logical and systematic approach to the creation, maintenance, use and disposition of records regardless of format. Records management also encompasses the selection, implementation and maintenance of systems that have been designed to assist organisations with this task.

Those people who are not versed in the science of records management tend to use the term “filing” to categorise what they think records management is. In reality records management is a little more complex than determining which section of the filing system should be used to store the documents.

It should be noted at this point that the term *filing system* is just one type of *records management system*. A filing system controls the arrangement, sorting and storing of records so that they can be readily and easily retrieved when required. Whereas the term records management system can be used to refer to a totally integrated system encompassing all records, regardless of format, from the moment of creation (and before) to their destruction or permanent archive.

Records Management ensures that organisations have access to the right material at the right time. This could be to support:

- Decision-making;
- Day-to-day operational activities; or
- As evidence of policies; and
- Litigation support.

Organisations are required by law to create certain records, and they are also obliged to retain certain series of records for specified periods. A records management system ensures that these legal obligations are met, as well as providing the means of managing the ever-increasing volume of records being created and received by an organisation on a daily basis.

The remaining sections of the manual explain the components of what a records management system is, and the numerous pieces of legislation that should be taken into consideration when deciding how long information should be retained.

1 Ricks, B.R. and Gow, K.F. 1988, Information Resource Management: A records Systems Approach, 2nd ed, South- Western Publishing Co., Cincinnati, Ohio, pp20

SECTION 5: STANDARDS AND BENCHMARKS

The publishers would like to draw the reader's attention to the many industry specific standards that are available which may affect record keeping.

5.1 RECORDS MANAGEMENT STANDARDS: AUSTRALIA

Records management is gaining worldwide acceptance as an important business activity and as such, standards for records management have been developed. These include:

- AS 2828: 1999 - Paper based health care records
- AS 5037: 2005 - Knowledge Management: A Guide
- AS 5044.1: 2002 - AGLS Metadata element set – AGLS Metadata element set
- AS 5044.2: 2002 - AGLS Metadata element set – Usage guide
- AS 5090: 2003 - Work Process Analysis for Recordkeeping
- AS 8000: 2003 - Corporate Governance – Good governance principles
- AS ISO 10013: 2003 - Guidelines for Quality Management System Documentation
- AS ISO 15489.1: 2002 - Information and documentation - Records management - Part 1: General
- AS ISO 15489.2: 2002 - Information and documentation - Records management - Part 2: Guidelines
- AS ISO 15801: 2006 - Electronic imaging – information stored electronically – Recommendations for trustworthiness and reliability
- AS ISO 18492: 2006 - Long-term preservation of electronic document-based information
- AS ISO 19005-1: 2006 - Document management – Electronic document file format for long-term preservation – Part 1: Use of PDF 1.4 (PDF/A-1)
- AS ISO 19005-1: 2006 - Amendment 1: 2007 - Document management – Electronic document file format for long-term preservation – Part 1: Use of PDF 1.4 (PDF/A-1)
- AS ISO 23081.1: 2006 - Information and Documentation – Records management processes – Metadata for records – Part 1: Principles
- AS ISO 23081.2: 2007 - Information and Documentation – Records management processes – Metadata for records – Part 2: Conceptual and implementation issues
- AS ISO/IEC 11179.1: 2005 - Information Technology – Metadata Registries (MDR) Framework
- AS/NZS 999: 1999 - Information and documentation – Guidelines for the content, organization and presentation of indexes
- AS/NZS 7799.2: 2000 - (Previously know as AS/NZS 444.2) Information Security Management – Specification for information security management systems. This is now superseded by AS/NZS 7799.3: 2003 - Information Ssecurity Management - Specification for information security management systems
- AS/NZS ISO/IEC 27001: 2006 - Information Technology – Security Techniques – Information security management systems – Requirements
- AS/NZS ISO 5127: 2004 - Information and documentation – Vocabulary
- AS/NZS/ISO 11798: 2004 - Information and documentation – Permanence and durability of writing, printing and copying on paper – Requirements and test methods
- AS/NZS/ISO 15836: 2004 - Information and documentation – The Dublin Core Metadata Element Set
- DR 05090 - Health Informatics – Electronic health record – Definition, scope and context
- HB 165: 2002 - Case Studies in Knowledge Management - Volume I
- HB 165: 2002 - Case Studies in Knowledge Management – Volume I Amendment 1-2002

SECTION 6: AN INTRODUCTION TO THE RECORD RETENTION PROGRAMME

A Record Retention Programme is one that ensures adequate controls over the ongoing retention as well as the protection and disposition of business records.

That is, it provides for efficient retrieval, secure and cost effective storage and handling, and timely destruction of an organisation's records or, in the case of Archival records, selection for further retention and possible preservation.

A properly constituted Record Retention Programme should remove from department and work unit heads the burden of responsibility for creating records disposal arrangements that may not comply with legal requirements or desired standards. Instead, department and work unit heads are simply asked, initially, to provide input in respect of records generated (upon which retention and disposal schedules are developed), and then to comply with certain procedures designed to meet the objectives of management in information security and retrieval, cost efficiency, standardisation and legal compliance. The programme is uniform and easily taught. Each department should know how to transfer records to storage correctly, how to retrieve them and how the disposal scheduling system works.

The components of a '**Record Retention Programme**' substantially can be recognised in the chart to follow.

RECORD RETENTION PROGRAMME

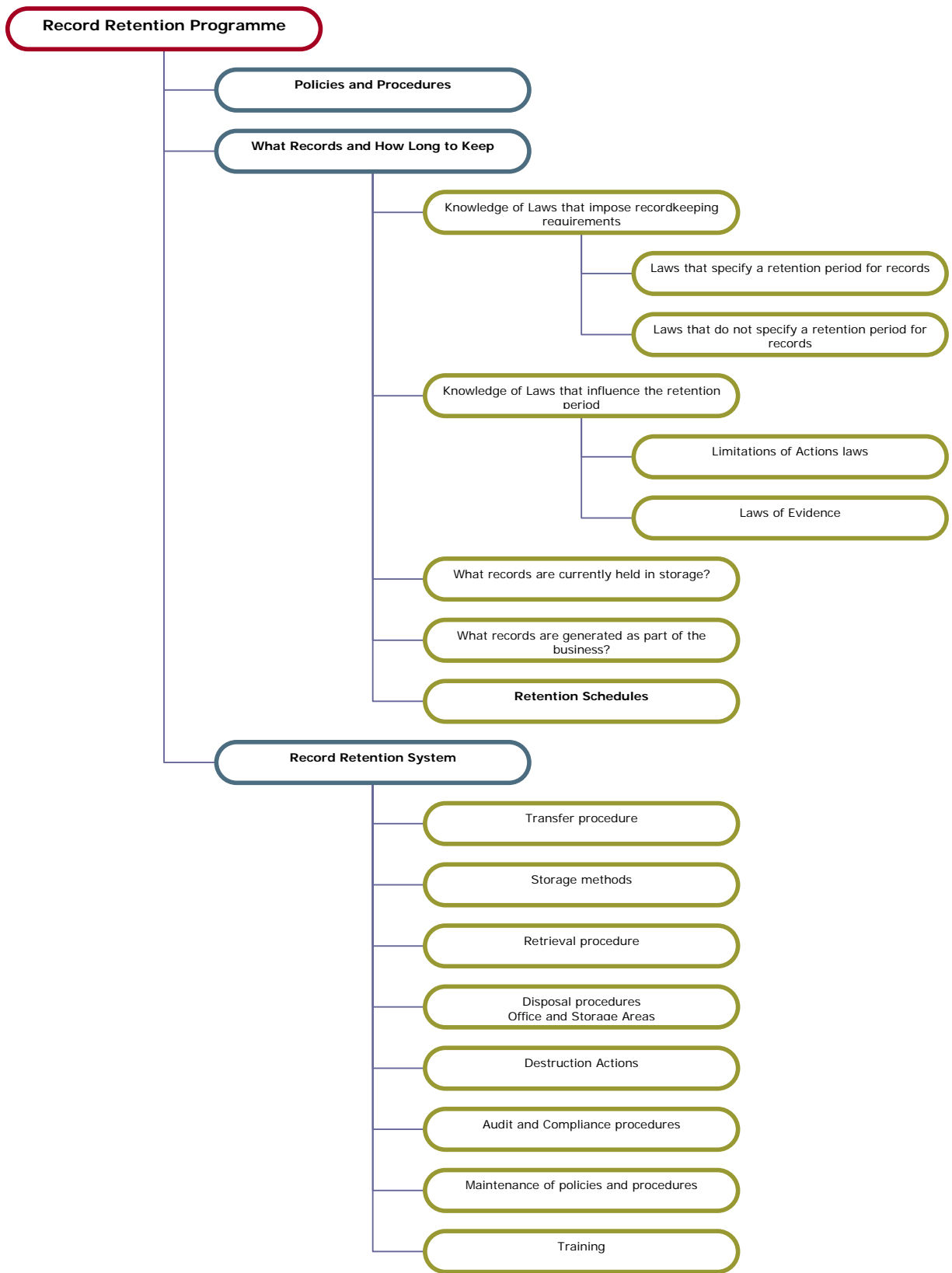


Fig. 1.

6.1 EFFECT ON CURRENT RECORDS

A **Record Retention Programme** is one part of a **Records Management System**. As an integral part of the records management system the **Records Retention Programme** may influence other components of the system, however, if it is developed as a stand alone system the **Records Retention Programme** should not in any way compromise the way records are created, filed, retrieved and managed. Rather, it influences the next step in the life of a record. It helps the user decide whether a record should be destroyed or transferred to storage or archives when it is no longer in an active phase. It then continues to provide the methodology until the final disposition of the record.

There is a mistaken belief, among many, that a proposed **Record Retention Programme** will change the way they manage their office records systems or that it offers an opportunity to upgrade to a more advanced office system. Whilst it may be true that most office record-keeping systems can be improved, any action to do so can, and should be taken independently. A **Record Retention Programme** accommodates whatever records exist in the office and is **not** dependent on an office system being efficient. On the other hand, if an office system is inefficient, causing the retrieval of information to be inefficient, then that deficiency will extend to records transferred to storage under a **Record Retention Programme**.

When developing or redeveloping office systems it is recommended that record retention requirements are taken into account. Any new records generated should always be included in the company **Record Retention and disposal schedules**.

6.2 WHY KEEP RECORDS?

Records are kept for a variety of reasons:

6.2.1 LEGAL REASONS

There are hundreds of laws and regulations that impose a record-keeping requirement. For a detailed list of those laws, which have been researched to date, see **Section 15: List of Laws**.

Duty of Care:

There is an implied requirement in law that a company should keep sufficient records to be able to prove that its legal and moral obligations in respect of any given law have been met.

If a retention period has been imposed on certain records by Federal or State law or regulation and if those records are destroyed prior to the end of that period, then not only is there an infringement of the law, but also it may be implied that there could have been other, hidden reasons behind the disposal action.

Even where the law is not specific about record retention periods, or perhaps sets a 'minimum' retention period, if retention policy or practice does not take into account overlapping legal influences such as Limitations of Actions law then, again, it may be implied that the disposal action was biased. In either case a penalty, or a higher penalty, may be imposed. (For more information on Limitations of Actions laws, see **Section 12**).

The term 'Duty of Care' is increasingly visible in present day law making and it creates an environment of conservatism in record retention, which many believe is desirable.

6.2.2 EVIDENTIARY REASONS

Any record can have evidentiary value if it is relevant and reliable. However the question of reliability takes on a new dimension when records have been produced by advanced technological means such as computers and mobile phones and can be deemed to have been "born digital." Under the laws of evidence records must be produced to support an assertion that a record is reliable, i.e. that it is authentic and that its contents are capable of being accurately and independently tested. For more information on the Laws of Evidence please see **Section 11**.

6.2.3 DISASTER RECOVERY

Many companies have a **Disaster Recovery Programme** in place as a means of reconstructing information resources. This is vital to an organisation's capability to continue operations in the event of a disaster such as fire or flood. A common technique is to store copies of vital records in alternative premises as insurance against loss of

important documents or critical information.

In determining whether or not an organisation is likely to suffer the effects of a disaster, an organisation should conduct a **risk assessment** of itself and its operations and should encompass:

- The building itself; its location and state of repair;
- The type of organisation;
- The services provided;
- The type of information created and stored;
- The organisation's history;
- How active and inactive records are currently stored;

A **disaster plan** cannot be written from a records management viewpoint alone. Disasters do not strike in isolation and they will affect the entire organisation, and this should be taken into consideration.

A **Disaster Plan** should state:

- What to do in the event of a "disaster";
- Who should be responsible and for which parts of the plan;
- In what order things should be done; and
- What resources will be needed.

When putting the Disaster Plan together, you should remember that, no two organisations are exactly the same, and therefore the steps needed to get your organisation back up and running operationally will vary from that of a neighbouring business, or a similar business housed in a different location.

An essential component of any disaster plan is that of a **Vital Records Programme**. To put it simply, **vital records** are those records that an organisation needs in order to function, and are essential as they contain information needed to re-establish an organisation in the event of a disaster. These records protect not only the assets and interests of the organisation, but those of its clients, shareholders and staff. "It is estimated that about 10% of the total records of an organisation can be classed as vital." (2)

Whilst some organisations may appear to be more vulnerable than others, for example chemical and petrochemical companies, all organisations need to consider which records are required to keep an organisation running should the unthinkable occur. The early years of the 21st Century have already seen a rise in global terrorism and counter attacks, all of which can have a detrimental effect on an organisation caught up in the conflict. As McDougall (3) points out "statistics show that more than 70% of businesses whose paperwork and computer programs are lost in fires, go out of business within three years."

Determining what is or is not a vital record comes down to how well you know your organisation. Unless you work in a very small organisation, it may be necessary to obtain assistance for this task from other members of staff. For example the internal auditor and representatives from key operational areas such as operations/production, research and engineering. You should also know what are your organisation's fundamental objectives and functions and know what is its "reason for being."

Identifying **vital records** can be achieved by assessing the following areas:

- Business continuity and resumption planning strategies;
- Risk assessment strategies;
- Organisational charts and related documentation to identify functions that are vital to an organisation;
- Functions and records as part of the process of preparing a Retention and Disposal Schedule; and by
- Reviewing organisational documentation.

The loss of records such as drawings, formulae and lab data on which production is founded, or computer tapes and other documentation containing current operating information, can be catastrophic and should always be classed as vital.

Somewhat less vital but still important are records relating to insurance, legal, payroll, personnel, contractual, share, financial and accounting. These records should be able to prove the amount of disaster losses, as well as other records that will protect the organisation in the event of a dispute.

When screening the records for inclusion in the vital records programme it is important to ask the following

2 Kennedy, J and Schauder, C, 1998 "Records Management: A Guide to Corporate Records" Peason Higher Education pp216

3 McDougall, J. 1989. "Planning ahead for your company security," Informaa Quarterly, Vol. 5, No. 3, pp. 17-19

questions:

1. What would we be unable to do if this record were destroyed?
2. What would be the impact on our organisation if we were unable to perform this function?

Once vital records are identified it is important that steps be taken to ensure they are adequately protected from destruction. This can be achieved with the use of vaults, strongrooms or fire resistant cabinets. However, if an organisation's building is destroyed or inaccessible these may not be accessible for some time (or at all, depending on the event), and an organisation may need to look at alternative storage locations for vital records (or copies thereof).

When selecting which method of protection and storage to use, it is important to record on the Retention and Disposal Schedule where all copies are kept, so that all records can be appraised, this is a vital part of an organisation's rationalisation study or retention and disposal programme.

6.2.4 HISTORICAL VALUE

Records that are perceived to have real or potential historical value to the company might be called **Archival records**. Archival records are not necessarily old records. History is constantly in the making. Board decisions, organisational changes, new offices, product developments, agreements, achievements of individuals, disasters and some statistics. Documented throughout the year these record a company's evolution and may be deemed to have historical significance. Many archival records can be predetermined, such as official Board Minutes and samples of company literature. Others may not be recognised until they are reviewed for disposal after a period of retention in secondary storage. The latter particularly applies to some correspondence and legal files.

Examples of Archival Records are:-

- Annual Report - at least one preserved copy plus a limited number of reference copies;
- Selected reports bearing the CEO's signature;
- Selected statistical analyses, all types, reflecting both internal and external conditions;
- Selected project and market reports;
- Policy issuances, including in-house manuals and directives;
- Secretarial diaries of senior officers;
- Samples of files of company letterheads, forms, labels and logos;
- Directories listing personnel names/positions;
- Selected records demonstrating company involvement in major projects, governmental studies and the work of important external bodies;
- Organisation charts and company guides;
- Selected management/board correspondence;
- Final sketches, perspectives and photographs of premises occupied, plant and machinery used and facilities provided for personnel and others;
- Drawings and plans of layouts, work flow, etc;
- Corporate records when in bound form or selected certificates, registers and licences held;
- Annual Corporate Return copy;
- Minutes of Meetings of directors, shareholders and selected boards and committees;
- Selected records of takeovers, acquisitions, business sales, etc;
- Selected records of share issues;
- Prospectus copies;
- Share registers/lists;
- External audit reports;
- Selected General Ledger materials and financial reports;
- Insurance policy records;
- Selected insurance claims records;
- Selected litigation records;
- Selected contract records;
- Guarantees and warranties issued;
- Title Deed copies;
- Brochures, catalogues, etc. (samples), demonstrating own marketing activities;
- Selected media advertisements (plain paper copies) showing own marketing activities;
- Selected marketing and promotional project records, including sponsorship records;

- Patent and Trade Mark records;
- Selected records, awards, certificates, medals, plaques, etc. demonstrating achievements of both the company and its personnel;
- Journals, magazines, newsletters, etc. generated in-house (full set);
- Selected papers and presentations made on behalf of the company;
- Press releases (Plain paper copies);
- Photographs and audio/visual recordings which reflect any of the above.

6.2.5 REFERENCE VALUE:

Irrespective of the foregoing reasons why records are kept, some people keep records simply for informational or reference value.

6.3 WHO IS RESPONSIBLE?

Responsibility for record retention and disposal is essentially multi-tiered.

Directors and administrators share legal accountability for maintaining record retention systems. The scope is quite broad, as it encompasses not only the system of operation but also manuals, retention and disposal schedules, training, reviews and audits. The development and ongoing maintenance of these activities, therefore, are usually delegated.

At the work unit level the **department or work unit head** often assumes sole responsibility for managing, retaining and destroying the unit's own records. There are inherent risks in this. The work unit head does not necessarily know of circumstances occurring outside the unit that might affect the value of individual records. Also, some heads will act on their responsibilities whilst others, perhaps because of work pressures or their perception of the importance of records, will not. This may lead to lack of uniformity, inaccuracy in record destruction and failure to control the records.

A more efficient approach is to establish certain corporate, centralised functions and to reduce the responsibilities of the work unit heads, who after all are there to perform other functions in keeping with their qualifications, to following a set of procedures that are centrally monitored.

The process of developing and implementing a **Record Retention Programme** is a corporate or centralised activity, requiring input from work unit heads. It is described in **Section 7**.

The ongoing maintenance of the programme involves several centralised and some decentralised activities.

Centralised activities include:-

- Development of policies and procedures, the issue of the company **Record Retention Manual (s.7.1.1)** and the **regular maintenance and updating of the system (s.7.4.7)**
- Review of the **Record Retention and Disposal Schedules** to ensure that new records have been evaluated and included and that retention periods continue to meet requirements **(s.8)**;
- Periodic **audit and compliance check** to test that records believed to be in storage are indeed in storage; that the work unit records inventories are accurate and up-to-date; that records retrieved from storage are correctly recorded; that records that should have been destroyed have been destroyed and that the archival records selection process has been followed **(s.7.4.6)**;
- **Training**, to ensure that any changes to systems or procedures has been conveyed to all concerned **(s.7.4.8)**;
- Management of the **storage area** or liaison with a commercial storage facility **(s.7.4.2)**;
- **Destruction** of records authorised for destruction **(s.7.4.5)**;

Decentralised activities: At the work unit level, the work unit head is responsible for managing the unit's records in compliance with the company **Record Retention Manual** and with all reasonable requests made by the Records Manager in relation to compliance and for ensuring that user personnel receive adequate training in the record retention system.

6.4 WHY DISPOSE OF RECORDS?

Disposal of records can take many forms, and includes the removal of **active** files from the office and their transfer to **inactive, secondary** or **archival** storage as well as the physical destruction of the record.

The decision as to how long a record should be retained in **active, secondary** or **archival** storage or whether a record should be destroyed is determined with the use of an organisation's retention and disposal schedule. The publishers of the Australian Record Retention Manual have provided a **Retention and Disposal Schedule (See Section 8.3.1)** for administrative records. This can be built upon using the industry specific legislation – also provided in **Section 15**. Subject indexes (**s.13**) and Laws by State (**s.14**) may assist you to locate these.

Records are disposed of when they are no longer required by the organisation - when they cease to have any reason for keeping them. (**s.6.2**).

Disposing of records that are no longer required reduces costs in terms of floor rental and storage costs, as well as minimising the number of records available and hence reducing the amount of time spent searching to retrieve information that is current and relevant.

SECTION 8: AUSTRALIAN RECORD RETENTION SCHEDULE

8.1 INTRODUCTION

A **Records Retention Schedule** is a list of the record series that have been determined by an organisation, with directions on how the records are to be disposed of after their creation and initial use has expired. The retention and disposal schedule should indicate the series no. allocated to each record group, a standard description and a prescribed retention period. Readers may find it useful to assign **two** retention periods to each group, one for the period of retention in the office and the other for the **total** retention period if longer. Record series that are to be retained indefinitely should be marked accordingly. In addition to this information, a retention and disposal schedule may also include directions on when records are to be transferred to secondary storage or archives.

Please note: the term disposal does not just refer to the physical destruction of records, but also to any other action that involves records being transferred from active storage, or semi-active storage to the next stage of their “life cycle.”

Record Retention Schedules form an integral part of record retention policy. They should be included in a **Record Retention Manual**, and are essential to the success of a **Record Retention Programme**.

A set of **Record Retention Schedules by Function** lists all of the records generated and filed according to function and their series numbers are generated by function. It facilitates a review of all records and their retention periods by function. It is also more stable than if the records were catalogued only by work unit. Organisational structures tend to change with the fashion. The full set of Schedules can be prepared as a policy document and issued either in the company **Record Retention Manual** or as a separate, controlled document.

It is recommended that when an organisation first develops its retention schedules, work units should gather the information. Only then should it be rationalised **by function** for the record retention manual.

Please note: How retention schedules are developed, step-by-step, is addressed in Section 7: Implementing a Record Retention Programme.

The schedules are listed as follows:

RECORD SERIES		Suggested on site retention	Suggested off site retention	Total retention period
NAME OF RECORD SERIES				
Series Number	Description of contents – This reflects the best or most preferred way of describing the records falling under any one series. Where the series number embraces several records they can be listed under the general description.	Period given in years	Period given in years	Total length of time the record series should be retained. Period given in years.

Whilst it is recognised that no two organisations are entirely alike, there are some record series that pertain to every organisation, regardless of size, location and type of business being conducted. **The Records Retention Schedule provided in this manual reflects those types of records series.**

Finding a Record Series in the Schedule:

To find a record in the schedule you can use the **Schedule Index (Section 8.2)**, this will give you its Series Number. Additional management notes regarding the record are given in **Section 9: Specific Records Groups**. Please note: These schedules only cover records of an administrative nature which are common to most organisations. Your organisation will create and use records that are not listed.

For example, if you are in Merchandising, Banking, Building, Trade Unions etc., you will find that the records which you associate with these functions are included only from the administrative viewpoint. You will need to add schedules to cover the more substantive interests of your company. This can be achieved with the use **Section 7.5** for advice on how to develop schedules for your organisation.

When developing your organisational specific retention and disposal schedule, you will need to refer to:

Part 5: Laws Relating To Retention And Disposal of Records which provides the relevant legislation for every organisation and business type, and is broken down as:

- Index of Business Groups and Law Groups (**Section 13**);
- Index of Laws by State (**Section 14**); And
- List of Laws (**Section 15**); listed in numerical order as researched.

Previous readers of the manual will also find **Section 16** useful as this contains the **Changes to Laws since the last edition**.

8.2 Schedule Index

Schedule Index	Section Nos	Record Series No(s) (s.8)	SRG No(s) (s.9)
A/P - accounts payable	8	FAP	
A/R - accounts receivable	8	FAR	
Abandoned project records	8	BLD.05, PRD.01.2	
Absentee records	8, 9	FPA.03 ,FPA.05, FPA.07	4, 13
Accident insurance records	8, 9	FGA.10	7
Accident procedures	8, 9	ADM.07	7
Accident, injury & illness logs	8	ADM.25.4	
Accident records and reports	8, 9	HSE.01, PER.01	4, 7
Accountable document registers	8, 9	ADM.90, FGA.90	2
Accounting procedures	8	ADM.07	
Accounts payable records	8	FAP	
Accounts receivable records	8	FAR	
Acquisitions - take-overs	8, 9	COR.16, LEG.01, LEG.02	6
Acts of parliament	8	- .99 (all schedules)	
Actual vs. Budget records	8	FGA.01	
Actual vs. Capacity records	8	FGA.01	
Ad Hoc Committee Records	8	ADM.04	
Ad Hoc non-routine payroll reports	8, 9	FPA.06	4, 13
Address – Change of	8, 9	COR.52	4
Addresses – employee lists	8, 9	PER.03	4
Administrative records	8	ADM	
Admittance Records	8	ADM.25.4	
Advances - loans records	8	FGA.13, LEG.01, LEG.02	
Advertising material – vendor	8	PUR.99	
Advertising records – own	8	MAR.11	
Affiliations – employee lists	8, 9	PER.01	4
Aged trial balances	8	FAR.05	
Agendas	8	ADM.04, ADM.15, ADM.25, BLD, COR.06, COR.07, COR.08, COR.16	
Agents' commission paid records	8	FAP.01	
Agreements	8, 9	BLD.03.2, LEG.01, LEG.02, PER.08	2, 10
Alerts (Including staff awareness programmes)	8	ADM.11	
Analytical - testing records	8, 9	QUA.01, QUA.04, SCI.08	6
Annual general meetings	8	COR.06	
Annual leave records	8, 9	FPA.02, FPA.05, FPA.07	4, 13
Annual reports	8	COR.03, COR.06	
Annual returns	8	COR.01, COR.03	
Annual statements to personnel	8, 9	FPA.08.2	4, 13
Application copies – building projects	8, 9	BLD.03.2	10
Applications for employment	8, 9	PER.01, PER.02	4
Archives/archival records	6, 8	ARC	
Articles - own, published	8	MAR.12	
Articles of association	8	COR.01, COR.02	
As built drawings	8, 9	BLD.03.1	10
Asbestos risk assessment results	8, 9	HSE.04	2, 10
Assessment records – personnel	8, 9	PER.01, PER.90	4
Asset records	8, 9	FGA.02	9
Assets and liabilities	8	FGL.03	
Association membership records	8, 9	ADM.15	
Attendance records	8, 9	PER.90	4
Attorney, powers of	8, 9	COR.54, LEG.01	2
Audit (Annual)	7.4.6		
Audit records	8	FGA.90	

8.3 RECORD RETENTION SCHEDULES (BY RECORD SERIES)

The Publishers would like to draw the reader's attention to the many industry specific standards which may affect the Retention and Disposal dates quoted in these schedules. The Publishers would also like to draw the readers attention to the organisations own Retention and Disposal Schedule, this is especially important for those organisations who are owned or managed by a parent organisation who's headquarters may not reside in Australia, or those organisations who have offices outside of Australia. In all cases consideration should be given for the retention of documents for the longest period of time, rather than the specified time stated in these schedules.

Record Series

Section number	Series	Series Code
8.3.1	Ephemeral Records	AAA
8.3.2	Administrative and Management	ADM
8.3.3	Archival (Historical Interest)	ARC
8.3.4	Building, Construction and Maintenance	BLD
8.3.5	Corporate and Secretarial	COR
8.3.6	Finance: Accounts Payable	FAP
8.3.7	Finance: Accounts Receivable	FAR
8.3.8	Finance: Banking	FBA
8.3.9	Finance: General Accounting	FGA
8.3.10	Finance: General Ledger	FGL
8.3.11	Finance: Payroll	FPA
8.3.12	Finance: Taxation	FTA
8.3.13	Health, Safety and Environment	HSE
8.3.14	Information Technology and Telecommunications	ITT
8.3.15	Legal	LEG
8.3.16	Manufacturing	MAN
8.3.17	Marketing, Public Relations and Sales	MAR
8.3.18	Personnel	PER
8.3.19	Product Development	PRD
8.3.20	Purchasing	PUR
8.3.21	Quality Control	QUA
8.3.22	Scientific and Technical	SCI
8.3.23	Stores	STO

RECORD SERIES		Suggested On-site Retention	Suggested Off-site Retention	Total Retention Period
QUA – Quality Control				
QUA.01	Laboratory And Other Quality Testing Records And Reports (incl. Product technical files, sampling work papers, defect analyses, customer complaints requiring QC testing, public analysts' reports, etc., excl. visual inspection documents - use QUA.03)			
QUA.01.1	<ul style="list-style-type: none"> For product lines - official copy in QC file When assigning this series number use the last day of the calendar year relevant to the record or the cessation date of production for the product being tested whichever is appropriate (where the product has ceased production assign 25 years as the destroy trigger). Where the product is still in production use the calendar year date Records should be held in the vault whilst held in active storage and reviewed by an Archivist prior to destruction (Refer to SRG.6) 	1 year	9 years 24 years	10 years 25 years
QUA.01.2	<ul style="list-style-type: none"> For items, which did not become product lines – official QC file copy When assigning this series number use the last day of the calendar year relevant to the record to calculate disposal (Refer to SRG.6) 	2 years	5 years	7 years
QUA.02	In-Process Test Results (incl. workbooks, worksheets, etc.). When assigning this series number use the last day of the calendar year to calculate disposal Ensure an Archivist reviews these records prior to destruction (Refer to SRG.6)	2 years	8 years	10 years

RECORD SERIES		Suggested On-site Retention	Suggested Off-site Retention	Total Retention Period
STO – Stores (Warehouses, Inventory)				
STO	For financial accounting records see FGA.11. The STO schedule is for stock volume movement and control purposes only			
STO.01	Inventory Movement Documents (held in stores office).			
STO.01.1	<ul style="list-style-type: none"> Documents, Which Provide Evidence Of Inventory Movement And Support - FGA.11 records When assigning this series number use the last day of the calendar year relevant to the record to calculate disposal 	1 year	9 years	10 years
STO.01.2	<ul style="list-style-type: none"> Documents not considered evidentiary 	DESTROY when reference ceases		
STO.02	Inventory Movement Documents (which support a contract - see SRG.2) When assigning this series number use the completion date of the project, product or contract to calculate disposal	1 year	9 years	10 years
STO.03	Inventory Stock Check And Internal Order Records For Merchandise Stores Replenishment	DESTROY when reference ceases		

SECTION 9: SPECIFIC RECORDS GROUPS (SRG)

This section examines several groups of records that have unique characteristics. Its purpose is to help the user rationalise an approach to the application, management and disposal scheduling of each record. For further assistance see the **Schedule Index – Section 8.2**.

Please note:

The 2009 edition has seen a major re-write of the following sections:

- Section 8: Australian Record Retention Schedule,
- Section 8.2: Schedule Index
- Section 8.3: Record Retention Schedule (By Record Series) and
- Section 9: Specific Records Groups (SRG's)

The publishers of the Australian Record Retention Manual have incorporated a number of SRG's into Section 8.3: Record Retention Schedule (By Record Series) and therefore will not be listed separately. **The remaining SRG's have been re-numbered.**

The SRG's removed and incorporated into Section 8.3: Record Retention Schedule (By Record Series) are as follows:

SRG.1:	LICENCES AND LEASES
SRG.2:	COMMITTEE AND BOARD RECORDS
SRG.3:	INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
SRG.5:	PAYROLL RECORDS
SRG.7:	SUPERANNUATION RECORDS
SRG.9:	INDEXES
SRG.10:	ORGANISATION CHARTS, DIRECTORIES, ETC.
SRG.14.1:	COMPLIANCE AND REGULATORY RECORDS
SRG.16:	TECHNICAL REFERENCE MATERIAL
SRG.18:	INSURANCE RECORDS
SRG.20:	CONTROLLED AND UNCONTROLLED DOCUMENTS
SRG.23:	ASSOCIATION RECORDS (Involvement in external bodies)
SRG.24:	LOANS AND BORROWINGS RECORDS
SRG.25:	PROMOTIONAL MATERIAL
SRG.26:	RECORDS OF COMPANY TAKE-OVERS ETC.
SRG.28:	INVESTMENT AND MONEY MARKET RECORDS
SRG.29:	MANUALS AND DIRECTIVES
SRG.30:	LEGAL FILES
SRG.31:	LITIGATION AND OTHER DISPUTES RECORDS
SRG.32:	REPORTS
SRG.33:	DESTROYED RECORDS LISTS
SRG.34:	PROJECT RECORDS

SRG.1: MICROFILM

Microfilm can still be used as a substitute for the paper record in some cases, although many of the advantages offered by the computer outweigh those of microfilming in the case of new systems, provided the rules of evidence can be reasonably satisfied. Microfilm can be produced in roll form, microfiche (a microfilm 'card' holding many images) or in aperture card or jacket forms (where the film roll is cut up so that images can be filed according to individual criteria.)

Some microfilm can be produced direct from a computer (a microfilm roll can be produced instead of paper printout.) In other cases a camera is used. There are two basic types of camera called Rotary and Planetary. A Rotary camera can take many 'shots' without stopping, the records to be photographed being fed at speed through the camera. The Planetary camera takes one shot at a time and is more often used where a large plan or drawing needs to be spread out and photographed from above.

The question of using microfilm in preference to paper records in any given circumstances is largely one of economics, i.e. whether the total savings in storage costs will exceed the actual costs of microfilming, whether information retrieval efficiency will be better served etc.

If the records to be microfilmed are not part of an audit trail or would never be useful as evidence in a court of law to help defend or prosecute an action, then economics is the only factor to take into account. The records being microfilmed and the microfilm itself can be destroyed when no longer useful.

If the records are part of an audit trail or may offer useful evidence in court, it is important to ensure the laws of evidence are met and documentary approvals to destroy original records, where necessary, are obtained.

The Laws of Evidence are examined in Section 11.

Approvals to destroy original records after microfilming may be obtained from the Australian Taxation Office or any other government body, which issues such approvals in respect of records for which they administer statutory rules.

Microfilmed images have proven to retain excellent legibility (of at least 30 years) if the microfilm is stored in metal boxes in stable atmospheric conditions.

Where a historically valuable (archival) record is microfilmed, it is desirable to retain the original document for historical preservation.

SRG.2: LEGAL DOCUMENTS

This section discusses a variety of legal documents, which share some common ground in disposal scheduling. They include:-

- Trusts Documents;
- Patent or trademark application registration documents;
- Warranty and indemnity documents, incl. guarantees given and received;
- Copyright evidence.
- Contracts and arrangements re: -
 - Company acquisition, takeover, merger, sale, dissolution, etc;
 - Sale of corporate entities;
 - Sale of businesses;
 - Joint venture arrangements;
 - Business funding;
 - Building or construction;
 - Agency, franchise, concessions etc.;
 - Technical know-how and support;
 - Trade secrets;
 - Design registration and licensing;
 - Marketing;
 - Licensing and distribution;
 - Regulatory licences and permissions;
 - Computer hardware and software;
 - Purchase or sale of goods or property;
 - Hire purchase;
 - Lease of goods or property;
 - Patent, trademark or copyright creation and use;
 - Royalties;
 - Trade Practices notifications and exemptions;
 - Contractors of all kinds.

In all circumstances original documents should be kept in vault conditions independently of the files relating to them. As each new legal document is created logging them numerically into a legal documents index may be beneficial. The entry could be cross-referenced to the file (containing related documentation and a copy of the legal document). The original document might then be filed, preferably in a fire-resistant cabinet or vault, numerically by its index entry number. At the time the document is drawn up, a date should be established (if possible) for its expiration, renewal or review. (This date is entered at least on the file). If a date has not been established there will be a risk in destroying the records later.

For records disposal scheduling purposes a contract terminates when: -

- All of the obligations (explicit and implied) under the agreement have been performed;
- The period of any guarantee, warranty, indemnification and/or confidentiality has expired;

- When the contract has been terminated by mutual consent between the parties concerned.

For documents other than contracts, disposal scheduling can commence on the date of final completion or expiration of all the conditions imposed by the document or related legislative or stock exchange requirements, including all renewals and extensions, or on the date of termination of the conditions if cut short by mutual agreement.

Retention Periods:

If the document is a **specialty, for example an agreement under seal (signed, sealed and delivered), or involves title to real estate or bonded moneys**, the major consideration is limitations of actions law, which varies from State to State and sets periods within which action can be taken by an aggrieved or offended party following an alleged breach. In all cases it is more than seven years (**see Sections 12.5 and 12.6**). Some organisations with interstate or overseas affiliations may choose to use an umbrella period of, for instance, 25 years.

If a specialty contract were scheduled, after contract completion, to only 7 years' retention for example, and then destroyed, an action may be brought after the records have been destroyed. Such a claim could be made not only by a party to the agreement, but by the taxation authorities or another third party for negligence. A legal defence would be weakened if the records were destroyed.

Claims for negligence, however, can still be brought many years later in cases where it is difficult to know whether or not the negligent act occurred during the currency of the contract. An example of this is given in **SRG.10: Building, Construction and Maintenance Records**.

Where a problem is discovered and a claim arises it is constructive to determine the date of the breach and consider the likelihood of other claims arising from the same breach. The same limitation periods allow new claims to be brought. The retention period assigned to the records should, under such circumstances, be suspended pending the outcome of the case, and ultimate satisfaction from any judgment. After that period the retention period should be re-appraised. Generally, either the originally assigned retention period should be allowed to continue to run its course or a period of 7 years should be assigned, whichever provides the longer retention. However, where a court judgment is sought to be enforced, a longer retention period should be set (**refer to Section 12.5**).

Where a contract is not under seal or there is no real estate impact, or there is no expressed or implied trust, etc., a retention period of contract completion plus 7 years, or claim completion plus 7 years, should suffice. Readers are advised to consider carefully the possible effect of further claims for negligence and lack of duty of care.

Retention periods for the above records are substantially set out in **Law No. (352) in Section 15: List of Laws**. For Minutes - we are advised to keep records for at least 10 years but we suggest retain permanently.

SRG.3: ELECTRONIC DATA INTERCHANGE (EDI)

EDI is the process of transferring information from one organisation's computer to another organisation's computer, in a standard format.

Trading partners using this technology: -

- Can transact business without using paper;
- Can respond more quickly to each other's requests;
- Can share up to the minute information on current business dealings.

Before EDI can become operational, intended users must address the questions of auditing and controlling paperless systems and adopt legal agreements with their trading partners to set operating rules and protect against potential litigation.

The dangers to guard against include: -

- Corruption of data;
- Unauthorised disclosure;
- Fraud and viruses;
- Manipulation of payments;
- Human error;
- Legal liability;
- Errors in computer processing and communications;

SECTION 10: INTRODUCTION TO MINIMUM LEGAL RETENTION REQUIREMENTS, LEGAL COMPLIANCE AND DUTY OF CARE

(For individual laws refer to Section 15)

Legally imposed record retention requirements are written into Federal and State laws and regulations. Some laws are universally applicable and all businesses are affected. Others are written for specific industries. The following is a selection from those with universal application. Notice how some retention requirements are overlapped by others.

The retention periods written into statutes and regulations must be regarded as only minimum periods. This is because they only relate to the workings of the respective statutes and their administration by relevant government authorities or departments. As the reader will note from **Sections 6, 7, 11 and 12**, a record should not be destroyed before competent assessment has been made of whether it should be retained for a longer period. Such assessment would involve knowledgeable consideration of business needs concerning due diligence/risk minimisation, and potential legal proceedings (taking into account both the need to retain documentary evidence and to bear in mind the limitation period or periods relevant to the possible legal action). Thus, it may be disastrous to destroy documents after the expiration of a statutory 5-year retention period, if the business may sue or be sued in relation to a transaction or for breach of a duty for a period of 6 or 12 or 20 years after the transaction has been completed.

Further, some statutes require that records be available for inspection by a government authority or department, and failure to permit inspection or make records available is an offence. Such record inspection or production powers are contained in a wide range of legislation, including laws relating to Taxation, Trade Practices, Stamp Duties and Corporations Law.

10.1 COMPANY LAW

The Corporations Act 2001 (**See Record 1303 in Section 15 – List of Laws**) requires 'accounting records' to be retained for 7 years after the completion of the transactions to which they relate. 'Accounting records' includes all documents of prime entry such as invoices and receipts and such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up.

The accounting records must correctly record and explain the company's transactions (including any transactions as trustee) and financial position must enable true and fair accounts of the company to be prepared and must enable the accounts to be conveniently and properly audited or reviewed in accordance with the Corporations Law.

The accounting records are required to be retained for 7 years after the completion of the transactions to which they relate.

10.2 TAXATION LAW

There are several statutes dealing with taxation. In general, they require that all records be kept to enable a person's tax liability to be readily ascertained.

10.2.1 (FED) INCOME TAX ASSESSMENT ACT ("ITAA") 1997

General Principles - A person carrying on a business must keep records that record and explain all transactions and other acts engaged in by the person that are relevant for any purpose of the ITAA. Following the introduction of self-assessment, the ITAA requires 'any document' to be kept, including all original source documents such as invoices and petty cash vouchers. Ruling TR 96/7 explains the general application of the record-keeping requirements concerning income and expenses of a business and provides guidelines for practicability.

The retention period is 5 years after the records were prepared or obtained, or 5 years following completion of the transactions or acts to which those records relate, whichever is the later.

SECTION 12: INTRODUCTION TO LIMITATIONS OF ACTIONS

12.1 OVERVIEW

Law has set limitations on the periods within which an offended party can initiate court actions. The reasons for these laws are based on the principles that:-

1. No-one should be held at legal peril ad infinitum;
2. Persons having rights should not sleep on them; and
3. Courts should not be asked to decide stale matters.

A party sustaining loss or injury cannot sue if the period of limitation has expired, and a party causing the loss or injury may no longer be held accountable for the loss or injury.

It is not the concern of limitations laws to impose record retention periods. However, it should be clear to the reader that where a dispute occurs, and where documents would provide evidence for either party, if either party has destroyed the records he places himself (or his company) at a legal disadvantage. The ultimate cost could be high indeed.

It is important to select and keep those records that might be useful in the event of having to prosecute or defend an action. This section provides a background to the record retention questions that must be addressed to satisfy limitations interests.

In all Australian States there are specific limitations laws:-

ACT	-	Limitation Act 1985
NSW	-	Limitation Act 1969
NT	-	Limitation Act
QLD	-	Limitations of Actions Act 1974
SA	-	Limitations of Actions Act 1936
Tas	-	Limitation Act 1974
Vic	-	Limitations of Actions Act 1958
WA	-	Limitation Act 1935 (this Act was repealed by the Limitation Legislation Amendment and Repeal Act 2005, but its provisions continue to apply to certain causes of action relating to childbirth and certain defamation actions)
	-	Limitation Act 2005

Limitations are not dealt with exhaustively in any of the above Acts. In NSW, for instance, there are approximately 80 limitation periods embodied in Acts other than the Limitations Act 1969. It is to be expected that similar numbers of additional limitations exist in other States. Western Australia's Limitations Act for example concentrates substantially on land and rent matters.

The majority of limitation periods are of six years or less. Most of those provide relatively short periods for an offended party to initiate action, such as one year or less. This is a period often overshadowed by other retention requirements.

For instance, a claim by a former employee for unpaid award wages must be brought within one to three years from termination of employment, depending on the State, but wages records must be kept much longer than that under tax laws. However, when a claim relates to negligence or workers compensation, the retention of wages records may be justified for an even longer period. After that period has expired, the court may see fit, for a variety of reasons, to 'extend' the limitation period.

The reader should also be aware that limitations laws tend to favour the government. Some government agencies claim that there is no limitation on the collection of taxes and, in some States, local councils, for example, have 20 years in which to recover rates. Should then a company keep audit trails permanently 'just in case' the government may make an unreasonable demand in the future?

SECTION 13: INDEX OF BUSINESS GROUPS AND LAW GROUPS

To locate a particular law first look up the subject group in the following list to find the list of laws pertaining to that group. Each law in the group is followed by a number in parentheses. Then look up that law number in **Section 15 - List of Laws**.

All Business Groups

The Attention of ALL businesses is drawn to the following list of laws, all of which impose a record-keeping requirement. It is also recommended that readers be aware of any industry specific standard which may impose a Retention and Disposal requirement on records kept by an organisation. Please also refer to **Section 5: Records Management Standards and Benchmarks**.

See Also Anti-Discrimination Laws

Environmental Laws

Financial Institutions

Industrial Relation Laws

Insurance Industry

Leave Laws

Occupational Health and Safety Laws

Payroll Tax Laws

Stamp Duty Laws

Superannuation Laws

Training Laws

Workers Compensation Laws

Section 10.1: Company Law

Section 10.2: Taxation Law

Section 10.3: Superannuation Law

Section 10.4: Industrial Relations or Employee Relations Law

Section 10.5: Annual Holidays and Long Service Leave Law

Section 10.6: Occupational Health and Safety

Section 10.7: Workers Compensation and Accident Compensation Law

Section 10.8: Privacy Amendment (Private Sector) Act

Section 10.9: Legal Compliance and Duty of Care

- Fed - A New Tax System (Family Assistance) (Administration) Act 1999 (36)
- Fed - A New Tax System (Goods and Services Tax) Act 1999 (37)
- Fed - A New Tax System (Goods and Services Tax Administration) Act 1999 (1181) – this Amending Act has been incorporated into the Taxation Administration Act 1953 (see law 753)
- Fed - Acts Interpretation Act 1901 (2362)
- Fed - Bankruptcy Act 1966 (780)
- Fed - Bankruptcy Rules 1968 (781) – these rules ceased on 16 December 1996
- Fed - Close Corporations Act 1989 (730) – repealed by First Corporate Law Simplification Act 1995. This Act no longer contains provisions relating to record keeping
- Fed - Companies (Acquisition of Shares) Act 1980 (181) - repealed by Corporations (Repeals, Consequential and Transitional) Act 2001. This Act no longer contains provisions relevant to record keeping. Instead please refer to the CORPORATIONS ACT 2001 (see law 1303)
- Fed - Companies Code 1982 (133) – prior to 2001 each State and Territory of Australia enacted their own corporations legislation. In 2001 they each referred their powers to the Commonwealth who enacted the Corporations Act 2001, which now applies. Any Federal or State legislation that existed prior to this has either been repealed or no longer applies. This Code is one of those. Please refer to the Corporations Act 2001 (see law 1303)
- Fed - Company Law Review Act 1998 (190) - this Act amends the Corporations Law 1989. This amending Act has been incorporated into the CORPORATIONS LAW 1989 (see law 2)
- Fed - Copyright Act 1968 (2304)
- Fed - Corporations Act 2001 (1303)
- Fed - Corporations (Aboriginal and Torres Strait Islander) Act 2006 (2129)
- Fed - Corporations Law 1989 (2) – repealed by Corporations Act 2001 (see law 1303)
- Fed - Corporations Regulations 1989 (273) – repealed by Corporations Regulations 2001 (see law 1304)
- Fed - Corporations Regulations 2001 (1304)
- Fed - Debits Tax Administration Act 1982 (732) - repealed by Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Fringe Benefits Tax Assessment Act 1986 (121)
- Fed - Income Tax Assessment Act 1936 (3)
- Fed - Income Tax Assessment Act 1997 (930) - **Note:** This Act contains provisions of the Income Tax Assessment Act 1936 in a rewritten form. It will eventually replace that Act. The first stage of this Act took effect on 1 July 1997 and is expected to take several years to complete. Meanwhile the Income Tax Assessment Act 1936 remains valid as well as the completed sections of this new Act
- Fed - Income Tax Regulations 1936 (112) - section 99I was repealed by Income Tax Amendment Regulations 2007 (No. 1). This Regulation no longer contains provisions relevant to record keeping
- Fed - Management and Investment Companies Act 1983 (740) – repealed by Industry, Tourism and Resources Legislation Amendment Act 2003. This Act no longer contains provisions relevant to record keeping

SECTION 14: INDEX OF LAWS BY STATE

14.1 FEDERAL

- Fed - A New Tax System (Family Assistance) (Administration) Act 1999 (36)
- Fed - A New Tax System (Goods and Services Tax) Act 1999 (37)
- Fed - A New Tax System (Goods and Services Tax Administration) Act 1999 (1181) – this amending Act has been incorporated into the Taxation Administration Act 1953 (see law 753)
- Fed - Aboriginal Councils and Associations Act 1976 (718) - repealed by Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006. This Act no longer contains provisions relevant to record keeping. Instead please refer to Corporations (Aboriginal and Torres Strait Islander) Act 2006 (see law 2129)
- Fed - Aboriginal Councils and Associations Regulations 1978 (778) - due to the repeal of the Aboriginal Councils and Associations Act 1976 by the Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006 these Regulations are now repealed. These Regulations no longer contain provisions relevant to record keeping
- Fed - Aboriginal Land Rights (Northern Territory) Act 1976 (719)
- Fed - Acts Interpretation Act 1901 (2362)
- Fed - Aged Care Act 1997 (1)
- Fed - Agricultural and Veterinary Chemicals (Administration) Act 1992 (19)
- Fed - Agricultural and Veterinary Chemicals Code Act 1994 (721)
- Fed - Agricultural and Veterinary Chemicals Code Regulations 1995 (800)
- Fed - Air Navigation Act 1920 (1582)
- Fed - Air Navigation Regulations 1947 (779)
- Fed - Airports (Control Of On-Airport Activities) Regulations 1997 (1889)
- Fed - Airports (Environment Protection) Regulations 1997 (2280)
- Fed - Airports Regulations 1997 (1379)
- Fed - Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (2163)
- Fed - Australian Wine and Brandy Corporation Act 1980 (2298)
- Fed - Aviation Transport Security Act 2004 (2282)
- Fed - Aviation Transport Security Regulations 2005 (1861)
- Fed - Banking Act 1959 (722)
- Fed - Bankruptcy Act 1966 (780)
- Fed - Bankruptcy Regulations 1996 (1965)
- Fed - Bankruptcy Rules 1968 (781) – these Rules ceased on 16 December 1996
- Fed - Bounty and Capitalisation Grants (Textile Yarns) Act 1981 (723) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Bed Sheeting) Act 1977 (724) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Books) Act 1986 (725) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Citric Acid) 1991 (1583) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Computers) Act 1984 (42) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Fuel Ethanol) Act 1994 (1584) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Machine Tools and Robots) Act 1985 (55) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Photographic Film) Act 1989 (1585) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Printed Fabrics) Act 1981 (62) - repealed by Statute Law Revision Act 2006. This Act no longer contains provisions relevant to record keeping
- Fed - Bounty (Ships) Act 1989 (63) - repealed by Statute Law Revision Act 2007. This Act no longer contains provisions relevant to record keeping
- Fed - Broadcasting Services Act 1992 (75)
- Fed - Carriage of Goods by Sea Act 1991 (726)
- Fed - Chemical Weapons (Prohibition) Act 1994 (728)
- Fed - Cheques Act 1986 (782)
- Fed - Child Support (Registration and Collection) Act 1988 (729)
- Fed - Civil Aviation Regulations 1988 (783)
- Fed - Civil Aviation Safety Regulations 1998 (2305)
- Fed - Close Corporations Act 1989 (730) – repealed by First Corporate Law Simplification Act 1995. This Act no longer contains provisions relating to record keeping
- Fed - Coal Excise Act 1949 (83) - repealed by Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006. This Act no longer contains provisions relevant to record keeping

SECTION 15: LIST OF LAWS

These laws are the result of research carried out up to the date of this publication. There may be other laws, regulations, etc., which have not yet been researched and there may be errors and omissions in the laws listed. The list is provided for guidance only. The reader is advised to verify and validate the content of any law before applying retention periods.

Explanatory notes.

(i) The laws are numbered sequentially as they are researched. (See **Sections 13 and 14** for indexes of laws in which each law is cross-referenced to its sequential number).

(ii) The following list of laws excludes those laws that relate to the retention of public records. Information on the retention of public records can be obtained from federal and state public records or archives offices. This list applies only to the private or business sector.

(iii) At the foot of each page there is a quick reference legend to the four entries listed beneath each law.

(a) Businesses affected. This entry includes corporations, individuals and other organisations.

(b) Records affected. Record descriptions are summarised. Capitals (A) (B) and (C) etc. are used to separate different records mentioned in the law. These same capitals are also used in the remaining entries to differentiate between other characteristics of those records.

(c) Retention period. This entry identifies, first, the minimum retention period specified by the law. Often, however, the law does not mention a retention period and sometimes a given retention period can be overlapped by a longer retention period dictated by another law or by the prudent application of limitations of actions laws. The authors have included a suggested retention period where deemed appropriate.

(d) Penalty. The final entry may be expressed in Australian dollars, penalty units or terms of imprisonment. In some cases the penalty may be subject to the decision of a court or tribunal. A penalty unit may vary in value from time to time. Up-to-date information can be obtained from the Attorney General's Department. This information is also listed in the glossary.

PENALTY UNITS (PU)

In law a penalty for an offence may be expressed in a dollar value or as a number of penalty units. If a penalty for an offence is expressed as a number of penalty units the penalty is a fine of that number of penalty units. For example: The value of the penalty unit for the offence is \$100 and the penalty unit is 10 PU. The fine is therefore \$1,000 (\$100 × 10). The following table shows the value of the penalty unit for each jurisdiction as well as the name of the legislation that provides for that value. It is important to note that the value does differ from jurisdiction to jurisdiction:

JURISDICTION	NAME OF LEGISLATION	VALUE (AS AT 04/08/09)
Fed	Crimes Act 1914	\$110
ACT	Legislation Act 2001	\$500 (Corporations); \$100 (Individuals)
NSW	Crimes (Sentencing Procedure) Act 1999	\$110
NT	Penalty Units Act 2009	\$130
Qld	Penalties and Sentences Act 1992	\$100
SA	Do not use penalty units, use dollar value instead	
Tas	Penalty Units and Other Penalties Act 1987	\$120
Vic	Sentencing Act 1991	\$100
WA	Do not use penalty units, use dollar value instead	

*See SRG I for note on Licences and Leases

(a) Business affected (b) Records affected (c) Retention period (d) Penalty

- 1 (Fed) AGED CARE ACT 1997, Sections 88.1-88.2, 89.1:**
- (a) (A), (B) and (C) Approved providers; (D) Former approved providers
 - (b) (A) Records that verify claims for payments of subsidy as set out under Chapter 3 (the Act – sections (s.88.1)); (B) Records that enable proper assessments to be made of whether the provider has complied with its responsibilities as set out in Chapter 4 (the Act – s.53 to 68) (s.88.1); (C) Records of the kind specified in the Records Principles which may include: care recipient assessment and classification records; appraisal and re-appraisal records; individual care plans for care recipients; medical records, progress notes and other clinical records of care recipients; schedules of fees and charges (including retention amounts relating to accommodation bonds) for past and current care recipients; agreements with the care recipient; accounts of care recipients; records relating to the approved provider meeting prudential requirements for accommodation bonds; records relating the payment of accommodation bonds (including periodic payments) or accommodation charges; and records of each recipient's entry, discharge and leave arrangements (including death certificates) (s.88.2); (D) Records kept when an approved provider must be retained (s.89.1)
 - (c) (A) and (B) 3 years after the 30 June of the year in which the record was made; (C) Not indicated; (D) 3 years after ceasing to be an approved provider
 - (d) (A) & (B) Up to 30 PU; (C) Not indicated; (D) 30 PU
- 2 (Fed) CORPORATIONS LAW, 1989, Section 289 (Repealed by Corporations Act 2001) (see law 1303)**
- 3 (Fed) INCOME TAX ASSESSMENT ACT 1936, Sections 82KT, 82KTBA-82KTH, 82KUB-82KZA, 82KZBF, 102AAZG, 160ZZU, 220AA-220AK, 221H, 222, 262A, 317, 451-452, 456-459A, 462-468, 614-622, Schedule 2A:**
- (a) (A) Persons who are attributable taxpayers in relation to a CFC at the end of a statutory accounting period of the CFC and the CFC has attributable income for the statutory accounting period in respect of the person; (B) Persons who have owned an asset, other than an excepted asset, after 19 September 1985; (C) Persons who receive a group certificate that sets out the salary or wages received or all or part of the employees reportable fringe benefits amount for a year of income; (D) Persons carrying on a business; (E) Taxpayers who had an interest(s) in a FIF (a foreign company or foreign trust) on or after 1 January 1993 or had an interest in a FLP (a foreign life assurance policy) at any time during a year of income ending on or after that date; (F) Persons who are attributable taxpayers in relation to the year of the income of that person and in relation to a particular trust estate; (G) Taxpayers who use their car for work related purposes and for which a tax deduction will be claimed; (H) Payers who make a reportable payment to a payee where the payee has not quoted their tax file number and therefore a deduction must be taken from the reportable payment. (Note: a reportable payment is assessable income but is not a payment of salary or wages and is not a prescribed payment and is not an exempt inter-corporate payment); (I) Payers who make one or more reportable payments during a financial year; (K) Companies that have substantiation requirements in relation to active income tests; (L) Partnerships that have substantiation requirements in relation to active income tests; (M) Where section 457(1) applies to a change of residence of a CFC and, at the residence-change time referred to in that section, a person is an attributable taxpayer in relation to the CFC; (N) Where section 459A(1) applies in relation to an amount (a trigger amount) included in the assessable income of an Australian partnership or of an Australian trust as mentioned in paragraph 459A(1)(a) and, at the time referred to in whichever subparagraph of paragraph 459A(1)(c) is applicable, a person is an attributable taxpayer in relation to the CFC or the CFT mentioned in that paragraph.
 - (b) (A) Records of the acts, transactions and other circumstances that resulted in the person being an attributable taxpayer in relation to the CFC at the time; and the basis of the calculation of the direct attribution interest, and the aggregate of the direct attribution interests, in the CFC held by the person at the time; the basis of the calculation of the attribution percentage of the person in relation to the CFC at the time; and the basis of the calculation of the amount (including a nil amount) included in the assessable income of the person under s.456 in relation to the CFC's attributable income for the statutory accounting period in respect of the person (s.462); (B) Records that enable the ready ascertainment of the date on which the person acquired the asset; whether the asset has not been disposed of; and if it has been disposed of the date of disposal, any amount that formed part of the cost base to the person in respect of the asset, and the consideration in respect of the disposal (s.160ZZU); (C) Group certificate to be retained (s.221H); (D) Records that record and explain all transactions and other acts engaged by the person that are relevant for any purpose of this Act. These records include any documents that are relevant for the purpose of ascertaining the person's income and expenditure and any documents containing particulars of any election, choice, estimate, determination or calculation made. The records include records required to be kept for the purposes of section 820-960, 820-980 or 820-985 of the Income Tax Assessment Act 1997 (s.262A); (E) Records of the acts, transactions and other circumstances that resulted in the taxpayer having the interest(s) in the FIF at the end of the year of the income or the interest in the FLP during the year of income; and the basis of the calculation of the interest or the interests at that time (unless exempted) (s.615-s.622); (F) Records containing particulars of the acts, transactions and other circumstances that resulted in that person becoming an attributable taxpayer including showing the basis of the calculation of the attributable income of the trust estate and the basis of the calculation of the amounts included in the assessable income of the person (s.102AAZG); (G) Log book records must be maintained for each journey and must show the date the journey began and ended; the respective odometer readings of the car at the beginning and the end of each journey; the number of kilometres traveled by the car in the course of the journey; the purpose(s) of the

*See SRG I for note on Licences and Leases

(a) Business affected (b) Records affected (c) Retention period (d) Penalty

journey; the name of the person(s) driving the car on the journey; the date the entry was made; and the name of the person who made the entry (s.82KT, Sch. 2A); (H) A receipt for the deduction must be provided to the payee at the time of the payment showing the payer's name and address, the payees name and address (if known), the date the payment was made, the amount of the payment and the amount deducted (s.220AA-s220AH); (J) An annual report must be prepared and sent to the Commissioner showing, for each payee, the payee's tax file number (if quoted); the payee's name and address; the total amount of the reportable payments made by the payer to the payee; and the total amount (if any) deducted by the payer under this Division for those payments. A copy of the report must be made (s.220AJ-s.220AK); (K) The substantiation requirements in relation to a statutory accounting period are as follows: general accounting records as correctly record and explain the matters, transactions, acts and operations that are relevant to the preparation of recognised accounts of the company for the statutory accounting period. The general accounting records must be so kept as to enable the recognised accounts of the company to be prepared (s.451); (L) The substantiation requirements in relation to a statutory accounting period are as follows: general accounting records as correctly record and explain the matters, transactions, acts and operations that are relevant to the preparation of recognised accounts of the partnership for the statutory accounting period. The general accounting records must be so kept as to enable the recognised accounts of the partnership to be prepared (s.452); (M) Records of the acts, transaction and other circumstances that resulted in the person being an attributable taxpayer in relation to the CFC at that time; the basis of the calculation of the direct attribution interest, and the aggregate of the direct attribution interests, in the CFC held by the person at the time; the basis of the calculation of the attribution percentage of the person in relation to the CFC at the time; and the basis of the calculation of the amount (including a nil amount) included in the assessable income of the person under section 457 in relation to the change of residence concerned (s.462A); (N) Records of the acts, transaction and other circumstances that resulted in the person being an attributable taxpayer in relation to the CFC or the CFT at that time; the basis of the calculation of the direct attribution interest, and the aggregate of the direct attribution interests, in the CFC or the CFT held by the person at the time; the basis of the calculation of the attribution percentage of the person in relation to the CFC or the CFT at the time; and the basis of the calculation of the amount (including a nil amount) that, apart from section 459A(2), would be included in the assessable income of the person under section 459A(I) in relation to the trigger amount (s.464A).

- (c) (A), (E), (F), (H), (M) & (N) Not indicated; (B) 5 years after the disposal of the asset; (C), (J), (K) & (L) 5 years; (D) 5 years after the records were made or obtained or the completion of the transactions or the acts to which they relate, whichever is the later; (G) 7 years
- (d) (A) (E), (M) & (N) Up to 30 PU; (B) \$3,000; (C), (H), (K) & (L) Not indicated; (D) & (F) 30 PU; (G) There is no entitlement to claim a tax deduction; (J) 20 PU. Note: There is an administrative penalty if you do not keep or retain records under section 288.25 in Schedule I to the Taxation Administration Act 1953

4 (Fed) SALES TAX ASSESSMENT ACT 1992, Section 127:

- (a) Persons who may be liable for sales tax or entitled to tax credit
- (b) Records that record and explain all transactions and other acts relevant to each assessable dealing or credit claim (s.127)
- (c) 5 years
- (d) \$3,000

Note: No sales tax is payable on an assessable dealing if the time of the dealing (as specified in Column 4 of Table I in Schedule I of this Act) is on or after the day on which the A New Tax System (End of Sales Tax) Act 1999 commences. The A New Tax System (End of Sales Tax) Act 1999 commenced on 1 July 2000. However, if the assessable dealing is in respect of a supply to which [section 6A](#) of the [A New Tax System \(Goods and Services Tax Transition\) Act 1999](#) applies, this section does not apply unless the time of dealing is after the end of the transition trading period (within the meaning of that section).

5 (Fed) TOBACCO CHARGES ASSESSMENT ACT 1955, Sections 13-14, 29 (Repealed by Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006. This Act no longer contains provisions relevant to record keeping.)

6 (Fed) WOOL TAX (ADMINISTRATION) ACT 1964, Sections 13-16A, 28-33, 61, 89 (Repealed by Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006. This Act no longer contains provisions relevant to record keeping.)

7 (ACT) TAXATION (ADMINISTRATION) ORDINANCE 1987, Section 96 (1) (Repealed by Taxation Administration Act 1999) (see law 32)

8 (NSW) ANNUAL HOLIDAYS ACT 1944, Sections 9, 11:

- (a) All employers
- (b) Holiday records (s.9)
- (c) 6 years
- (d) Up to 10 PU

*See SRG I for note on Licences and Leases

(a) Business affected (b) Records affected (c) Retention period (d) Penalty



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