

# Appraisal log

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Fair Trading Retention and Disposal Schedule

Department of Justice and Attorney-General

Date: 28 March 2017

# Disposal Schedule

*Coverage: This schedule does not cover the records created/held in business systems administered by the Office of Fair Trading. The appraisal of these records is ongoing and will be included in the future reviews of this retention and disposal schedule. (as of January 2017)*

Title		Scope Note
<b>COMPLIANCE</b>		<i>The function of monitoring and enforcing compliance with legislation administered by the Office of Fair Trading (OFT) for market and industry trading and community organisations through registration, licensing, complaint handling, conciliation, investigation and pro-active and educational compliance operations and enforcement options.</i>
<b>Activities</b>		
Complaint Assessment		
Investigation and Enforcement		
Fine Administration		
Trust Accounts		
Disposal authorisation	Description of record and retention period	Justification for retention period
1671	<p><b>Complaints received</b></p> <p>Records relating to the assessment and/or conciliation of complaints received via all communication mediums including social media for alleged breaches of legislation administered by the agency that are not referred for investigation.</p> <p>Includes assistance offered i.e. advice and conciliation for complaints received where there were</p>	<p><b>Background/business process:</b></p> <p>The Office of Fair Trading (OFT) receives complaints about the business practices and products of market and industry traders. Officers assess the complaint to determine if it falls within OFT legislative boundaries and if so, does the complaint provide information to indicate a breach of legislation administered by OFT. If no possible breach is identified for which enforcement action can be taken, conciliation with the trader is attempted in an effort to resolve the matter. If a possible breach is identified the matter is referred for investigation.</p> <p>At the conclusion of the information and jurisdiction assessment phases OFT may consider whether or not it is appropriate to inquire into a complaint. OFT may decline to commit compliance resources to the investigation of the alleged breach or misconduct.</p> <p><b>Regulatory requirements:</b></p> <p>Complaints against traders are assessed against the applicable regulatory requirements in the legislation that OFT administers, particularly the Australian Consumer Law (ACL) provisions relating to:</p>

	<p>no breaches of legislation.</p> <p><b>Disposal action -</b></p> <p>7 years after finalisation of assessment and/or conciliation of complaints, whichever is latest.</p>	<ul style="list-style-type: none"> <li>• Consumer guarantees</li> <li>• False or misleading representations</li> <li>• Misleading and deceptive conduct</li> <li>• Pricing</li> <li>• Unconscionable conduct</li> <li>• Unfair contract terms</li> <li>• Unsolicited supplies</li> <li>• Unsolicited consumer agreements</li> </ul> <p>As the OFT administers over 55 pieces of legislation and associated regulations, it is not possible to list all of the regulatory requirements that may be relevant to a complaint especially as they will vary based on their own circumstances. A list of OFT legislation as detailed under the current Queensland Government Administrative Arrangements Orders, accompanies this appraisal for QSA consideration.</p> <p>Some pieces of legislation (and subsequent regulations) associated with Compliance including, but is not limited to:</p> <ul style="list-style-type: none"> <li>• <i>Agents and Financial Administration Act 2014</i></li> <li>• <i>Associations Incorporations Act 1981</i></li> <li>• <i>Charitable Funds Act 1958</i></li> <li>• <i>Cooperatives Act 1997</i></li> <li>• <i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i></li> <li>• <i>Fair Trading Act 1989 (incorporating the <b>Australian Consumer Law (ACL)</b>)</i></li> <li>• <i>Fair Trading Inspectors Act 2014</i></li> <li>• <i>Funeral Benefit Business Act 1982</i></li> <li>• <i>Introduction Agents Act 2001</i></li> <li>• <i>Motor Dealers and Chattel Auctioneers Act 2014</i></li> <li>• <i>Property Occupations Act 2014</i></li> <li>• <i>Second-hand Dealers and Pawnbrokers Act 2003</i></li> <li>• <i>Security Providers Act 1993</i></li> <li>• <i>Tattoo Parlours Act 2013</i></li> </ul> <p>The ACL came into effect on 1 January 2011 and replaced the <i>Trade Practices Act 1974</i> and previous Commonwealth, State and Territory consumer protection legislation. It is contained in Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) and is applied as a law of each State and Territory by that jurisdiction's legislation. The ACL is applied in Queensland through the <i>Fair Trading Act 1989</i>.</p>
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**Business requirements:**

OFT requires these records to be retained for 7 years for the following operational reasons:

- they support decisions that OFT made in the exercise of its compliance functions in accordance with its Compliance and Enforcement Policy and Standards (CEPS). Accordingly, OFT may be required to disclose these records during legal proceedings if an affected party exercises any legal right of review or appeal they may have.
- OFT conducts periodic reports involving historical data held in previous complaints e.g. complaints against a specific trader/industry group over the last 5 years. These reports assist OFT to identify potential areas for pro-active compliance measures such as trader education visits, spot checks and awareness campaigns.
- Information obtained when processing a complaint may be required or be relevant to a subsequent investigation into that trader and any enforcement action, particularly if there is a history of noncompliance in previous complaints.

A 7 year retention period also allows sufficient time for legal proceedings to be commenced before the relevant statutory limitation period/s in the *Limitation of Actions Act 1974* expire.

**Community expectation:**

The general public and other public authorities trust OFT to fulfil its role as Queensland's consumer protection agency. OFT considers and monitors complaints received against traders to determine if any systemic trader issues are evident in the community.

**Comparison with other schedules' retention period:**

*Queensland State Archives – Residential Tenancies Retention and Disposal Schedule (QDAN706v1)* – for records relating to the management of the conciliation process for tenancy / bond disputes – reference 2.1.1 – 7 years after finalisation of conciliation process or bond, whichever is latest.

*National Archives of Australia - Australian Competition and Consumer Commission Records Disposal Authority (Job no 2003/0034920)* – for records documenting complaints that do not result in enforcement action – Entry 6094 – Destroy 6 years after action completed.

*Public Records Office of Victoria - Victoria Consumer Affairs Retention and Disposal Authority for Records of Consumer Affairs functions (PROS 11.04)* – for records documenting complaint handling – reference 6.2.2 - Destroy 7 years after matter closed.

**Other comments/factors for consideration:**

Complaints assessed as a conciliation matter were originally retained for 3 years. However, other areas

		<p>within OFT, particularly investigations, may seek to access these matters for operational reasons after the 3 years have expired. Investigations (minor) have a retention period of 7 years from date of file closure. Therefore, a 7 year retention period is appropriate.</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference 3.6.4 – Mediation – Retain for 3 years from date of file closure.</p>
<p>1672</p>	<p><b>Investigations – significant</b></p> <p>Records relating to investigation of complaints for alleged or proven breaches of legislation administered by the agency which are deemed significant.</p> <p>Significant investigations are those which set a precedent where the outcome of the investigation results in the:</p> <ul style="list-style-type: none"> <li>• development of, or changes to, legislation administered by the agency</li> <li>• development of, or changes to, the agency’s policies and standards</li> </ul> <p>Includes issues that have resulted in significant public interest, controversy, or caused significant consumer detriment.</p>	<p><b>Background/business process:</b></p> <p>The process of determining if OFT operations or investigation processes, information and/or enforcement action taken may lead to precedent setting outcomes.</p> <p>Precedent setting from an OFT perspective would encompass observations and determinations during its activities that would result in OFT amending its legislation, policies or procedures to ensure best business practices and appropriate consumer protection.</p> <p>There is no specific investigation/s records to date that have prompted changes to legislation or internal policy purely from an investigative perspective and therefore, requiring permanent retention of those investigation records. That is not to say, it won’t happen.</p> <p>Changes to OFT legislation or internal policies would generally come about following OFT compliance operations or through industry specific consultation where that industry would voice any concerns about OFT legislation or practices. Any national consumer or industry specific concerns that may give rise to amendments to the ACL would be discussed on a national level between State, Territory and the Commonwealth (ACCC) reps. Should operation outcomes or industry concern lead OFT to question its legislative boundaries or enforcement capacity, legal advice would be sought in the first instance making the process more of an administrative one.</p> <p>Records relating to Compliance Operations/operational consultation would fall under the current GRDS for administrative functions under, but not limited to, the following classes:          1023 – Evaluations and reviews – significant; and/or          1160 – Legal advice – significant (as any proposed operational changes would be submitted thru OFT legal team or Crown Law for advice)</p> <p><b>Regulatory requirements:</b></p> <p>Compliance regulatory requirements under fair trading legislation and the ACL, deemed relevant to and within the context of an issue, are considered when determining if a matter is considered as a precedent setting. Regulatory requirements under fair trading and consumer law legislation are too numerous to list in this document.</p>

	<p><b>Disposal action -</b></p> <p>Permanent. Transfer to QSA after business action completed.</p>	<p><b>Business requirements:</b></p> <p>As well as possibly being available for future court or tribunal cases, monitoring of, and reference to, significant investigations can identify if a trend or issue of concern exists and if there is a need to develop or change OFT's processes, policies or legislation. This retention period allows for detailed information obtained during OFT investigations or operations to be considered prior to legislative, policy or procedural changes and as a reference after any changes have occurred.</p> <p>These records were previously retained for 15 years from date of finalisation of investigation. They are now required to be retained permanently as the outcome of the investigation changes an act and/or policies administered by the Office of Fair Trading, may cause serious and considerable detriment to consumers and industry, and serious impact on a safe and equitable marketplace.</p> <p><b>Permanent retention criteria in accordance with Queensland State Archives Appraisal Statement:</b></p> <p>Characteristic 1 – Authority, foundation and structure of government. Characteristic 2 – Primary functions and programs of government Characteristic 4 – Significant Impact on Individuals</p> <p><b>Community expectation:</b></p> <p>These records provide reassurance to the community and industry that OFT's obligations are met through thorough and ethical practices and where necessary, changes are made to ensure consumer detriment is determined swiftly and dealt with appropriately.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Queensland State Archives <i>Liquor and Gaming Sector Retention and Disposal Schedule</i> for:</p> <ul style="list-style-type: none"> <li>• Investigations that result in significant changes to legislation, policy or processes or the case file sets a precedent – disposal authorisation number 1613 – permanent transfer to QSA after business action completed</li> <li>• Significant investigations of licensees, casinos and their associates - disposal authorisation number 1661 – permanent transfer to QSA after business action completed</li> </ul> <p><i>Queensland State Archives - Residential Tenancies Retention and Disposal Schedule QDAN706v1</i> for records relating to significant investigations including major impact on policies and standards – reference number 4.1.1 – retain permanently.</p> <p><i>Queensland State Archives - Queensland Audit Office Retention and Disposal Schedule (QDAN 648v.2)</i> for records relating to investigations into complaints and allegations of improper use or management of public sector entity finances or non-compliance where: the complaint is substantiated the nature of the misconduct is such that it attracts significant public controversy, results in significant penalties for the</p>
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		<p>accused or leads to a change in legislation, policy or procedure – reference number 4.6.1 – retain permanently.</p> <p><i>State Records Authority of New South Wales - Retention and Disposal Schedule for Department of Fair Trading (DA48) for records relating to investigation of complaints or breaches against landlords or agents, including illegal evictions, leading to legal action or prosecutions by or on behalf of the Department, or in which Department has major involvement – reference number 6.2.1.2 - required as State archives.</i></p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference 3.7 Complaint Investigation - 3.7.6 – Precedent setting matters – Retain for 15 years from date of finalisation of investigation.</p>
1673	<p><b>Investigations – major</b></p> <p>Records relating to investigation of alleged breaches of legislation administered by the agency ranging from serious misconduct, multi-jurisdictional matters and proven product safety issues to misleading and deceptive conduct and undermining licensing requirements, and which are not covered under record classes 1672 and 1674.</p> <p><b>Disposal action -</b></p> <p>15 years from the completion of the investigation.</p>	<p><b>Background/business process:</b></p> <p>Investigating alleged breaches of legislation administered by OFT (including the <i>Fair Trading Act 1989</i> incorporating the ACL) initiated by complaints received and assessed, intelligence received, referrals, or as a result of pro-active compliance operations.</p> <p>Instances of scheduled compliance operations include:</p> <ul style="list-style-type: none"> <li>• Security providers - Detect unlicensed traders in security sector, including crowd controllers, locksmiths, security equipment installers and CCTV monitoring</li> <li>• Real estate industry - Check accuracy of advertisements made by real estate agents and salespeople, including photographs and descriptions of property</li> <li>• Importers - Check compliance with product safety obligations</li> <li>• Online business - Check compliance with product safety obligations by online suppliers</li> <li>• Car hire businesses – Check compliance with product safety obligations in the car hire industry, particularly with regard to child restraints</li> <li>• Ekka – Check showbags and other novelty items for sale at the Ekka are safe</li> <li>• Motor dealers – Check compliance with Motor Dealers and Chattel Auctioneers Act 2014, particularly targeting unlicensed dealers</li> <li>• Christmas toys - Annual check of children’s toys and products to ensure unsafe items are not on sale in the lead-up to Christmas</li> </ul> <p><b>Example of major investigation</b> - Following complaints received by OFT an investigation into the business practices of a real estate entity was commenced. The investigation determined the licensee of the agency managed 48 rental properties and had misappropriated trust account monies relating to</p>

rental payments received for some those properties. OFT appointed a receiver over the trust account while it continued its investigation. Receivers determined the licensee misappropriated over \$200,000 of property owners rental income. The matter was heard by the Magistrates court where the licensee pled guilty to breaching legislation administered by OFT. Losses to clients of the agent have been met by the Claim Fund established under the *Agents Financial and Administration Act 2014* with over \$219,000 paid from the fund to clients who had suffered a loss due to the agent's contraventions of OFT legislation.

This above matter is considered a Major Investigation. OFT's legislative ability to appoint receivers over trust accounts, take substantial prosecution action against a non-compliant trader and provide a resource to compensate consumers who have suffered a financial loss, demonstrates current OFT legislation and OFT's policies and procedures are sufficient and do not require amendment for major investigations such as this one.

**Product Safety** – The national product safety framework operates as a 'one law, multiple regulator model'. This means that the single Australian Consumer Law is administered co-operatively between the ACCC and State and Territory based fair trading agencies.

State and Territory Minister's responsible for the Australian Consumer Law can individually introduce interim bans on unsafe goods, issue mandatory recalls, and safety warning notices. The Commonwealth Minister has additional powers to introduce permanent bans and mandatory product safety and information standards. The Queensland OFT works cooperatively with the ACCC, as the national product safety regulator, in terms of national compliance operations, monitoring emerging product safety issues, and sharing information. Wherever possible national outcomes are sought in terms of recalls and bans.

**Regulatory requirements:**

Compliance regulatory requirements under fair trading legislation and the ACL, deemed relevant to and within the context of the issue, are considered when conducting investigations. Regulatory requirements under fair trading and consumer law legislation are too numerous to list in this document.

Some pieces of legislation (and subsequent regulations) associated with Compliance including, but is not limited to:

- *Agents and Financial Administration Act 2014*
- *Associations Incorporations Act 1981*
- *Charitable Funds Act 1958*
- *Cooperatives Act 1997*
- *Debt Collectors (Field Agents and Collection Agents) Act 2014*



- *Fair Trading Act 1989 (incorporating the Australian Consumer Law (ACL))*
- *Fair Trading Inspectors Act 2014*
- *Funeral Benefit Business Act 1982*
- *Introduction Agents Act 2001*
- *Motor Dealers and Chattel Auctioneers Act 2014*
- *Property Occupations Act 2014*
- *Second-hand Dealers and Pawnbrokers Act 2003*
- *Security Providers Act 1993*
- *Tattoo Parlours Act 2013*

**Business requirements:**

OFT requires major investigation files to be retained for 15 years from completion to cover risks associated with OFT's responsibility for consumer protection and trader recidivism. Investigators can uncover risks to the community during investigations and therefore formulate appropriate long term consumer protection initiatives based on investigation outcomes.

Reporting functions generate information on complaints against specific traders over a requested period of time (generally a 3 – 5 year period) and assist OFT in monitoring complaints against specific traders. If required OFT can use these reports to determine if compliance spot checks or trader visits are required. The information also assists with OFT's reinspection program which targets previous offenders.

Unless a matter results in the requirements noted at 1672, there is no reason for OFT to retain major investigation records for longer than 15 years. OFT has significant and sufficient enforcement options available to neutralise/counteract systemic and serious misconduct by traders and to eliminate or significantly reduce any impact on individuals. Enforcement action against a non-compliant trader can include:

- criminal proceedings.
- civil proceedings
- prosecution action
- enforceable undertaking
- public naming or public warning
- disciplinary action

Product testing or enforcement action for major investigations resulting in a product safety issue can

include public safety warnings, product recalls or the banning of a product all together.

Aside from any OFT enforcement action taken against offenders for proven breaches, legislation administered by OFT also provides consumers with remedy action if desired. For example:

- A Claim Fund established under the *Agents Financial and Administration Act 2014* provides consumers who have suffered financial loss (up to \$200,000) due to a contravention of specific legislation administered by OFT, with a means of retrieving lost monies through the fund.
- DJAG's Justice Services provides consumers with the option of taking further civil action through the courts or tribunal against a trader.

**Community expectation:**

The general public and other public authorities trust OFT to investigate alleged breaches of legislation administered by OFT. Where a major breach is substantiated, OFT is expected to take appropriate enforcement action, including naming unscrupulous traders, initiating prosecution action or instigating civil or criminal proceedings against a trader.

**Comparison with other schedules' retention period:**

Queensland State Archives *Liquor and Gaming Sector Retention and Disposal Schedule* for:

- case files of major investigations – disposal authorisation number 1614 – retain for 15 years from completion of the OLGR investigation
- case files relating to routine investigations into gaming and liquor licensees and their associates - disposal authorisation number 1662 – retain for 12 years after involvement ceases in the Queensland liquor and gaming industry

Queensland State Archives - *Residential Tenancies Retention and Disposal Schedule QDAN706v1* for records relating to other investigations – reference number 4.1.2 – retain for 15 years after last action.

*State Records of South Australia (RDS 2012/13)* - Investigations – Records documenting the identification of unsafe products, including product safety files, consumer complaints records of investigations and reports, schedules of and briefings relating to banned goods – reference 1.2.4 - Destroy 10 years after action completed.

*State Records Authority of New South Wales - Department of Fair Trading Disposal Authority (DA48)* – Records re routine complaints and breaches, including cases which led to routine legal action. Includes original complaint or breach notifications, investigation reports, correspondence between parties involved, etc. – reference 5.3.1.3 - Retain a minimum of 10 years after action completed, then destroy.

**Previous schedules:**

		<p>QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.7 Complaint Investigation - 3.7.5 – Major complaints – retain 10 years from date of finalisation of investigation.</li> <li>• 3.7 Complaint Investigation - 3.7.7 – Complaints against re-offending, problem parties as possible breaches of breaches of legislation – retain 10 years from date of finalisation of investigation.</li> <li>• 3.9 Consumer Compensation Receiverships (previously part of Trust Accounts) – 3.9.1 - Auditing of Trust Funds (registered) – Retain for 12 years from date of file closure.</li> </ul>
1674	<p><b><i>Investigations – other</i></b></p> <p>Records relating to investigations of alleged breaches of legislation administered by the agency where contraventions are unlikely to impact on the marketplace and where minor issues may evolve into larger issues if not addressed by investigative action and which are not covered under record classes 1672 and 1673.</p> <p><b>Disposal action -</b></p> <p>10 years after business action completed.</p>	<p><b>Background/business process:</b></p> <p>Investigating alleged breaches of legislation administered by OFT initiated by complaints received, intelligence received, referrals, or as a result of pro-active compliance operations. Investigation outcomes may result in lower level enforcement action or trader education.</p> <p>OFT reporting functions generate information on a trader’s compliance history over a period of time. These reports assist OFT in determining if an investigation should be upgraded to a higher risk category.</p> <p>OFT would attempt to conciliate the matter if the result of the assessment determined an investigation was not necessary. These records are covered under 1671.</p> <p><b>Regulatory requirements:</b></p> <p>Compliance regulatory requirements under fair trading legislation and the ACL, deemed relevant to and within the context of the issue, are considered when conducting investigations. Regulatory requirements under fair trading and consumer law legislation are too numerous to list in this document.</p> <p><b>Business requirements:</b></p> <p>OFT requires these records to be retained for 10 years for the following operational reasons:</p> <ul style="list-style-type: none"> <li>• They are relevant to and support decisions that OFT made in the exercise of its compliance functions in accordance with its CEPS. Accordingly, OFT may be required to disclose these records during legal proceedings if an affected party exercises any legal right of review or appeal they may have; and</li> <li>• OFT conducts periodic reports involving historical data held in previous investigations e.g. investigations against a specific trader/industry group over the last 5 years. These reports assist OFT to identify potential areas for pro-active compliance measures such as trader education</li> </ul>

visits, spot checks and awareness campaigns.

- Information obtained during an investigation may be required or be relevant to a subsequent investigation into that trader and any enforcement action, particularly if there is a history of noncompliance.

The retention period also allows sufficient time for legal proceedings to be commenced before the relevant statutory limitation period/s in the *Limitation of Actions Act 1974* expire.

**Community expectation:**

The general public and other public authorities trust OFT to investigate alleged breaches of legislation administered by OFT and the ACL. Where a breach is substantiated, OFT is expected to take appropriate enforcement action against a trader and ensure any consumer detriment is dealt with promptly and appropriately.

**Comparison with other schedules' retention period:**

Queensland State Archives *Liquor and Gaming Sector Retention and Disposal Schedule* for investigations case files other – disposal authorisation number 1615 – retain for 10 years from the date of finalisation of the investigation.

Queensland State Archives - *Residential Tenancies Retention and Disposal Schedule QDAN706v1* for records relating to other investigations – reference number 4.1.2 – retain for 15 years after last action.

State Archives and Records New South Wales - *Department of Fair Trading Disposal Authority: DA48 – 1.3.1.3* Records relating to the investigation of routine complaints, breaches or compliance issues, including complaint forms, working notes, routine investigation reports, inspectors' reports, mediation notes, correspondence, etc. – Retain a minimum of 7 years after action completed, then destroy.

Public Records Office of Victoria - *Victoria Consumer Affairs Retention and Disposal Authority for Records of Consumer Affairs functions PROS 11.04 - 6.2.2* – Records documenting complaint handling, Includes: initial collection of information regarding the dispute from the parties, notes of telephone interviews with parties to the complaint; copies of supporting documentation provided by either party; correspondence addressed to and received from parties to the complaint; case notes of decisions made and outcomes reached; referrals to other organisations or other parts of the agency; warnings issued for minor non-compliance; agreed outcomes/resolution; and where a complaint is not resolved, advice on next steps that may be taken – Destroy 7 years after matter closed.

**Previous schedules:**

QDAN 586 v2 reference 3.7 Complaint Investigation - 3.7.4 – Minor complaints – Retain 7 years from date of finalisation of investigation.

1675	<p><b>Evidence (exhibit) register</b></p> <p>Register of evidence collected during investigations undertaken by the agency.</p> <p><b>Disposal action -</b></p> <p>10 years after business action completed.</p>	<p><b>Background/business process:</b></p> <p>During an investigation a variety of evidence can be collected, seized and secured in accordance with OFT's Exhibit and Property Handling Policy. A book of evidence is kept to record evidence collected and is maintained by a nominated Registrar. Upon finalisation of an investigation either internally or through a court or tribunal, evidence is destroyed in accordance with OFT's Exhibit Register policies.</p> <p><b>Regulatory Requirements:</b></p> <p><i>Fair Trading Inspectors Act 2014</i> – Division 3 – Subdivision 1 – Power to seize</p> <p><i>Justice Act 1886</i> – Section 39 – Power of court to order delivery of certain property</p> <p>OFT's Exhibit, evidence and property handling policy and the Exhibit register and evidence room policy Appendix 8 – State-wide Operations.</p> <p><b>Business requirements:</b></p> <p>The register needs to be retained for 10 years to assist with ongoing enquiries and investigations and to ensure the integrity of OFT and its officers in monitoring the evidentiary chain of custody. Very occasionally, complex matters may lead to investigations exceeding the general timeframes for completion. Providing a 10 year retention on the Evidence Register will ensure OFT's transparency in its handling of evidence over longer periods of time.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Queensland State Archives - <i>Queensland Transport and Main Roads</i> (QDAN 474 v5) - Evidence (exhibit) Register – Register of evidence collected from vehicle inspections undertaken by the department on all class of vehicles – reference 4.13.3 – 5 years after last action.</p> <p>Queensland State Archives - <i>Liquor and Gaming Sector Retention and Disposal Schedule</i> for exhibit register – disposal authorisation number 1623 – retain for 7 years after business action completed.</p>
1676	<p><b>Infringement and Civil penalty notices</b></p> <p>Records relating to the details, registration, monitoring payment progress and withdrawal or cancellation of infringement and civil penalty notices issued for</p>	<p><b>Background/business process:</b></p> <p>Penalty notice enforcement action will be taken by OFT in instances when there is sufficient evidence available to reasonably believe a breach of legislation administered by OFT (including the <i>Fair Trading Act 1989</i> incorporating the ACL) has occurred.</p> <p>OFT <i>Infringement notices</i> are issued by OFT officers under the authority of the <i>State Penalties Enforcement Act 1999</i> for OFT legislative offences as prescribed in the State Penalty Enforcement Regulations 2014. In this regard, Queensland police officers are authorised to assist OFT in enforcing compliance under the <i>Security Providers Act 1993</i>, the <i>Tattoo Parlours Act 2013</i> and the <i>Second-hand</i></p>

	<p>non-compliance of legislation administered by the agency</p> <p><b>Disposal action -</b></p> <p>7 years from date penalty issued.</p>	<p><i>Dealers and Pawnbrokers Act 2003</i>. Officer of Liquor and Gaming compliance officers are authorised to assist OFT in enforcing compliance under the <i>Security Providers Act 1993</i>.</p> <p><i>Civil penalty notices</i> supplement criminal sanctions and allow OFT to take action for breaches of unfair practices and other conduct more efficiently and effectively than proceeding to court or other action.</p> <p><b>Regulatory requirements:</b></p> <p><i>Fair Trading Act 1989</i></p> <p><i>State Penalties Enforcement Act 1999 s15</i> (for Infringement Notices).</p> <p><i>Security Providers Act 1993</i></p> <p><i>Second-hand Dealers and Pawnbrokers Act 2003</i>.</p> <p><i>Tattoo Parlours Act 2013</i></p> <p>Civil Penalty Notices are issued under the authority of fair trading legislation and the ACL for breaches of certain legislative provisions. These breach provisions are too numerous to list in this document.</p> <p><b>Business requirements:</b></p> <p>Section 4 of OFT's CEPS provides information, guidance and advice on OFT's enforcement strategy and general rule of enforcement, which incorporates the use of infringement notices and civil penalty notices. These records relate to the issue of notices and fines for low to moderate risk non-compliance within the trade and licensing industry. OFT requires infringement and civil penalty notice records be retained for 7 years as:</p> <ul style="list-style-type: none"> <li>• they support the business decisions made by OFT</li> <li>• low to moderate risk investigations which may result in these notices are retained for 7 years after the investigation is completed</li> <li>• they are linked to the receipt of monies which requires a 7 year retention under disposal authorisation 1099 of the General Retention and Disposal Schedule</li> </ul> <p>Justification for the disposal trigger of 'date penalty issued' – Should an offender fail to pay the infringement fine amount within 28 days or after any granted extension period has expired, OFT will refer the matter to SPER which takes carriage of procuring the fine payment. Following this action, OFT is no longer involved and the matter is finalised from an OFT perspective. However, the infringement notice documentation will be kept for a period of 7 years as a record of enforcement action taken by OFT.</p> <p>If payment of an infringement notice has been referred to SPER, it will be up to SPER to commence</p>
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		<p>prosecution action against the offender for payment of the penalty. In most circumstances OFT would consider the issuing of an infringement notice as the enforcement action taken. OFT does not commence court action to recover an infringement fine payment.</p> <p>If a Civil Penalty Notice is not paid within 28 days (or following an extension period) and/or where there is public interest to do so, OFT will withdraw the CPN and proceedings (either civil or criminal) may be commenced in lieu of the CPN. Whether paid or withdrawn to commence court proceedings, a 7 year retention period for CPN records from date of issue is sufficient and allows for any appeal action via QCAT or through the <i>Limitations of Actions Act 1974</i> (6 years).</p> <p><b>Community expectation:</b></p> <p>OFT recognises effective application of enforcement and other action for non-complaint behaviour will significantly encourage compliance with fair trading legislation and promote community confidence in the marketplace and OFT itself.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Queensland State Archives - <i>Liquor and Gaming Sector Retention and Disposal Schedule</i> for records relating to infringement notices – disposal authorisation number 1608 – 7 years after matter is resolved.</p> <p>Queensland State Archives - <i>Queensland Transport and Main Roads</i> (QDAN 474 v5 - Penalty infringement notices) - Records relating to the issuing of a penalty infringement notice to an alleged offender following the detection and/or investigation of an alleged offence by an authorised departmental officer that does not proceed to a court hearing - 4.9.7 - Retain for 7 years after investigative processes are finalised.</p> <p><b>Other comments/factors for consideration:</b></p> <p>Should offenders within 28 days of receipt of infringement notice, fail to pay the penalty imposed or fail request an extension on payment, OFT will forward the matter to SPER which then takes over the responsibility of finalising the matter which may include court action.</p> <p>Should offenders within 28 days of receipt of a civil penalty notice, fail to pay the penalty imposed or fail to request an extension on payment, OFT can take prosecution action against the offender.</p>
1677	<p><b>Trust account maintenance</b></p> <p>Records relating to the opening, closing and auditing of trust accounts required by licensed</p>	<p><b>Background/business process:</b></p> <p>The <i>Agents Financial Administration Act 2014</i> provides that an agent must, in certain circumstances, pay money received by the agent in respect of a sale or other transaction into a general trust account with an approved financial institution. OFT activities include the opening, closing, changing and auditing of those trust accounts.</p>

operators under legislation administered by the agency.

**Disposal action -**

7 years after the last financial year to which the record relates.

**Regulatory requirements:**

*Agents Financial Administration Act 2014* – Part 2 Division 1  
*Debt Collectors (Field Agents and Collection Agents) Act 2014* – Part 8 Trust accounts  
*Motor Dealers and Chattel Auctioneers Act 2014* – Part 6 Trust accounts  
*Property Occupations Act 2014* – Part 8 Trust accounts

**Business requirements:**

OFT requires these records to be retained for a minimum of 7 years as they:

- need to be retained to support OFT’s decisions
- are required for trader compliance history purposes
- align with information required for consumer compensation claims
- support section 86 of the *Agents Financial Administration Act 2014* for a 6 year time limit to make a claim for marketeering and non-investment residential property contraventions

**Community expectation:**

Efficient monitoring of trader trust accounts is essential to ensure trader compliance. Traders fully complying with OFT legislation for trust account requirements and consumers negotiating transactions requiring their funds to be held in trust, expect appropriate enforcement action to be taken by OFT against traders failing to comply in this regard.

**Comparison with other schedules' retention period:**

Queensland State Archives - *General Retention and Disposal Schedule (GRDS)* – for records relating to establishment of trusts – disposal authorisation number – 1110 – 7 years after the disbursement of all assets/funds.

Queensland State Archives - *General Retention and Disposal Schedule for Administrative Records of National Bodies (QDAN 711 v2)* - Trusts – management - Records relating to the routine management of trust funds - 6.16.2 - Retain for 7 years after the financial year to which the records relate.

*Public Records Office of Victoria - Victoria Consumer Affairs Retention and Disposal Authority for Records of Consumer Affairs functions (PROS 11.04)* – Estate Agent and Conveyancer’s Trust Account Supervision and 7.4.1 - Records documenting notifications received from licensed estate agents or conveyancers concerning the establishment or closure of general trust accounts with approved Authorised Deposit Taking Institutions (ADIs) - Class No. 7.4.0 - Destroy 7 years after closure of trust account.



		<p><b>Other comments/factors for consideration:</b></p> <p>The Australian Taxation Office (ATO) requires businesses to keep business records for at least 5 years after they are prepared and the Australian Securities and Investment Commission (ASIC) advises financial records for a company must be kept for 7 years. Therefore, trader obligations justify retention of OFT records.</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference 3.36 Activity - Trust Fund Register Maintenance:</p> <ul style="list-style-type: none"> <li>• 3.36.1 – trust accounts opened and closed by licensed holders - retain for 7 years from date of closure of trust account</li> <li>• 3.36.2 – survey of trust accounts - Retain for 7 years from date that system is implemented</li> <li>• 3.36.3 – reconciliation of individual bank reports of trust accounts - retain for 7 years from date of report generated</li> <li>• 3.36.4 – financial statements of trust account monies and interest reconciliation of monies owing - retain for 7 years from end of financial year</li> <li>• 3.36.5 – bank agreements made between the agency and individual banks - retain for 7 years from date of expiry of bank agreement</li> <li>• 3.36.6 – negotiating bank agreements between agency and individual banks - retain for 7 years from date of expiry of bank agreement</li> <li>• 3.36.7 – correspondence and records relating to reporting against agreements with individual banks - retain 7 years from date of closure of trust account</li> </ul>
Title		Scope Note
<b>CONSUMER COMPENSATION</b>		<i>The function of assessing and determining consumer compensation payments from the Claim Fund set up under the Agents Financial Administration Act 2014 to consumers who have suffered a financial loss due to a trader breaching specific provisions of particular legislation administered by OFT.</i>
Activities		
Claims and Recoveries		
1678	<b><i>Claim determination and recovery processes</i></b> Records relating to claim	<b>Background/business process:</b> Under legislation administered by OFT, some traders such as real estate agents and motor dealers are

	<p>applications made against the Claim Fund, the agency's attempt to recover monies from liable traders and the agency's decision to write off a claim.</p> <p><b>Disposal action -</b> 7 years from date of claim payment, recovery of debt or when debt is written off.</p>	<p>required to operate a trust account for monies received for consumer purchases. Interest earned on these trust accounts is paid into a consolidated fund held by Queensland Treasury. A portion of the funds are provided to the Claim Fund set up under the <i>Agents Financial Administration Act 2014</i> to reimburse consumers up to \$200,000 who have suffered a financial loss when a licensee is found to have contravened specific OFT legislation. OFT also conducts the activity of recovering monies paid out to eligible consumers, from liable traders/entities.</p> <p><b>Regulatory requirements:</b> <i>Agents Financial Administration Act 2014</i> <i>Debt Collectors (Field Agents and Collection Agents) Act 14</i> <i>Motor Dealers and Chattel Auctioneers Act 2014</i> <i>Property Occupations Act 2014</i></p> <p><b>Business requirements:</b> OFT requires these records be retained for 7 years as:</p> <ul style="list-style-type: none"> <li>• they support business decisions made by OFT</li> <li>• Allow for time limitations of 6 years for making a claim under s 86 of the <i>Agents Financial Administrations Act 2014</i> or 6 years to commence action under section 10 (1) of the <i>Limitation of Actions Act 1974</i></li> </ul> <p><b>Community expectation:</b> For many consumers, the purchase of a motor vehicle, house or investment property is a priority and is generally a major financial commitment. Therefore, consumers expect licensees in these retail markets to act in accordance with the law. Consumers also expect OFT to enforce legislation in order to protect consumers from unscrupulous licensees in these industries.</p> <p><b>Comparison with other schedules' retention period:</b> <i>State Records New South Wales - Department of Fair Trading (DA48)</i> for records relating to:</p> <ul style="list-style-type: none"> <li>• 1.6.1.0 Motor dealer compensation Records re the payment of compensation, including successful applications for compensation, administration of Trust Funds, correspondence between parties involved, determinations, etc - Retain a minimum of 7 years after action completed, then destroy.</li> <li>• 6.1.1.2 for Property Services – Retain 7 years.</li> </ul> <p><i>Public Records Office of Victoria - Victoria Consumer Affairs Retention and Disposal Authority (PROS</i></p>
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11.04):

- Class No. 8.1.2 Records documenting payments made out of trust funds to settle claims lodged by consumers, or as loans to applicants - Destroy 7 years after completion of financial year in which the record was created.
- Class No. 8.2.5 Records documenting the recovery of subrogated debt, where the Secretary of the Department of Justice has sought to recover money from licensees whose fraudulent or dishonest dealings led to their clients making successful Victorian Property Fund claims - Destroy 7 years after claim determined.

*Queensland State Archives – Office of State Revenue Retention and Disposal Schedule (QDAN 642 v1)*  
–Records relating to the recovery of debt owed to OSR involving taxes, grants and subsidies - 4.1.1 - Retain for 5 years from end of last financial year.

**Other comments/factors for consideration:**

There is no apparent reason for records to be held for longer than 7 years from the date of a claim payment. Comparison with other schedules also confirm a 7 year retention period is acceptable.

**Previous schedules:**

QDAN 586 v2 reference:

3.8 Consumer Compensation Claims (*Property Agents and Motor Dealers Act 2000*)

- 3.8.1 – claim against the claim fund where application has been lodged and the claimant is uncontactable or unresponsive to correspondence – retain for 7 years from date of closure of file
- 3.8.2 – potential claim against the claim fund – retain for 3 years from date of closure of file
- 3.8.3 - claim against the claim fund where the claim has been settled to the satisfaction of both parties – retain for 7 years from date of settlement of claim
- 3.8.4 - claim against the claim fund where the claim has been withdrawn by claimant – retain for 7 years from date of withdrawal of claim
- 3.8.5 - claim against the claim fund where the claim has been rejected and/or no financial pay-out has been awarded – retain for 7 years after last action
- 3.8.6 - claim against the claim fund where a financial pay-out has been awarded – retain for 7 years from date licensee's outstanding debt is paid off or written off

3.10 Consumer Compensation Recovery

- 3.10.1 – recovery of financial pay-outs awarded in successful claims against the claim fund –

		retain for 12 years from date the outstanding debt is paid off or written off
Title		Scope Note
<b>INDUSTRY LICENSING</b>		<i>The function of considering licence applications to perform specific business activities subject to legislation administered by OFT.</i>
Activities		
Assessment		
1679	<p><b>Applications</b> Records received by the agency that relate to the processing of licence applications and renewals.</p> <p><b>Disposal action -</b> 7 years from date of lodgement into register.</p>	<p><b>Background/business process:</b> OFT is the legislative authority to consider individuals or corporations seeking an industry licence to perform specific business activities subject to legislation administered by OFT. Licensees include real estate agents, motor dealers, auctioneers, security providers, tattoo operators, pawnbrokers, second-hand dealers, debt collectors, introduction agents, and inbound tour operators.</p> <p><b>Regulatory requirements:</b> When determining an application and to ensure an applicant is fit and proper to hold a licence, officers abide by regulatory requirements for suitability as stated in the legislation listed below.</p> <p><i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i> <i>Introduction Agents Act 2001</i> <i>Motor Dealers and Chattel Auctioneers Act 2014</i> <i>Property Occupations Act 2014</i> <i>Second-hand Dealers and Pawnbrokers Act 2003</i> <i>Security Providers Act 1993</i> <i>Tattoo Parlours Act 2013</i> <i>Tourism Services Act 2003</i> <i>Mutual Recognition (Queensland) Act 1992</i></p> <p><b>Business requirements:</b> These records are required to document licences approved by OFT under its legislation. A licence granted and held under OFT legislation is subject to conditions prescribed in that legislation. OFT requires these records to be retained for 7 years following lodgement into the OFT industry licencing</p>

business system as they:

- support decisions made by OFT
- provide compliance reference value to OFT
- are linked to the receipt of monies which requires a 7 year retention under disposal authorisation 1099 section 4.1.2 of General Retention and Disposal Schedule
- licences have a renewal period of 1-3yrs

This class covers records received by the agency relating to a licences they administer. The details from the records are entered into the licence business system, the data about licences are not covered under this class. Once captured in the system these records are only required for the reasons listed above as the data, captured in the business system, is retained for the life of the licence, statistics, reporting purposes etc.

**Community expectation:**

The community trusts they are dealing with a qualified and licensed entity in their business dealings. OFT through its legislation approves licence applications only if the applicant has satisfied specific criteria as set out in probity checks undertaken by OFT which include criminal history checks.

**Comparison with other schedules' retention period:**

Queensland State Archives - *Liquor and Gaming Sector Retention and Disposal Schedule* for records relating to Liquor licences – disposal authorisation number 1653 – 7 years after transfer, cancellation or surrender of licence.

*State Records of New South Wales Department of Fair Trading (DA48)* - 1.2.1.2 Records relating to the licensing of credit providers, finance brokers, motor dealers, travel agents, weighbridge operators, private employment agents, pawnbrokers and second-hand dealers. Includes application forms and associated documentation, copies of licences and correspondence, etc. - Retain a minimum of 7 years after expiry of licence, then destroy.

State Records of South Australia *RDS 2012/13*

- 2.1.11 Applications and Registrations – Records relating to trade licensee/registrant applications. Includes applications for new licence or amendment to existing licence conditions, or surrendering of licences/registrations – Destroy 7 years after action completed
- 2.1.13 Applications and Registrations – Records documenting receipt, recording and determining of applications for approval of a Crowd Controller to be licensed under prescribed legislation – Destroy 7 years after expiration/revocation of licence.

National Archives of Australia – *Records Authority Australian Securities and Investments Commission* – for records documenting the approval and management of financial market licence applications – reference number 16775 - destroy 7 years after entity ceases trading.

**Previous schedules:**

QDAN 586 v2 reference:

3.2 Auctioneer Licensing

- 3.2.1 - registrations (applications) – retain for 7 years from expiry, surrender, withdrawal (renewal) of licence
- 3.2.2 - refused applications / withdrawals (lapsed/removed applications) – retain for 2 years from date of refusal or withdrawal of licence application
- 3.2.3 - renewals (renewed registrations) – retain for 5 years from date of renewal of licence
- 3.2.5 - registered employees – retain for 7 years from date of registration or renewal
- 3.2.6 - Notings – retain for 7 years from date of notification of change
- 3.2.7 - Mutual recognition requests (for confirmation) – retain until reference ceases

3.5 Commercial Agent Licensing

- 3.5.1 - registrations (applications) – retain for 7 years from expiry, surrender, withdrawal (renewal) of licence
- 3.5.2 - refused applications / withdrawals (lapsed/removed applications) – retain for 2 years from date of refusal or withdrawal of licence application
- 3.5.3 - renewals (renewed registrations) – retain for 5 years from date of renewal of licence
- 3.5.5 - registered employees – retain for 7 years from date of registration or renewal
- 3.5.6 - Notings – retain for 7 years from date of notification of change
- 3.5.7 - Mutual recognition requests (for confirmation) – retain until reference ceases

3.15 Introduction Agent Licensing

- 3.15.1 - registrations (applications) – retain for 7 years after the expiry, surrender or cancellation of licence
- 3.15.2 - withdrawals (lapsed/removed applications) – retain for 2 years after the withdrawal or

lapsing of the application

- 3.15.3 - rejections (refused applications) – retain for 2 years after the rejection of the application
- 3.15.4 - Notings – retain for 7 years from date of notification of change

### 3.20 Motor Dealer Licensing

- 3.20.1- registrations (applications) – retain for 7 years from expiry, surrender, withdrawal (renewal) of licence
- 3.20.2 - refused applications / withdrawals (lapsed/removed applications) – retain for 2 years from date of refusal or withdrawal of licence application
- 3.20.3 - renewals (renewed registrations) – retain for 5 years from date of renewal of licence
- 3.20.5 - registered employees – retain for 7 years from date of registration or renewal
- 3.20.6 - Notings – retain for 7 years from date of notification of change
- 3.20.7 - Mutual recognition requests (for confirmation) – retain until reference ceases

### 3.24 Pawn Brokers Licensing

- 3.24.1 - registrations (applications) – retain for 7 years from expiry, surrender or cancellation of licence
- 3.24.2 – withdrawals (lapsed/removed applications) – retain for 7 years from date of lapse or withdrawal of application
- 3.24.3 - rejections (refused applications) – retain for 7 years from date of refusal of application
- 3.24.4 – renewals (renewed registrations) – retain for 7 years from date of renewal
- 3.24.5 - Notings – retain for 7 years from date of notification of change
- 3.24.6 - Mutual recognition requests (for confirmation) – retain until reference ceases

### 3.26 Real Estate Agents Licensing

- 3.26.1- registrations (applications) – retain for 7 years from expiry, surrender, withdrawal (renewal) of licence
- 3.26.2 – refused applications / withdrawals (lapsed/removed applications) – retain for 2 years from date of refusal or withdrawal of licence application
- 3.26.3 – renewals (renewed registrations) – retain for 5 years from date of renewal of licence

		<ul style="list-style-type: none"> <li>• 3.25.5 – registered employees – retain for 7 years from date of registration or renewal</li> <li>• 3.26.6 - Notings – retain for 7 years from date of notification of change</li> <li>• 3.26.7 - Mutual recognition requests (for confirmation) – retain until reference ceases</li> </ul> <p>3.28 Restricted Letting Agents Licensing</p> <ul style="list-style-type: none"> <li>• 3.28.1 - registrations (applications) – retain for 7 years from expiry, surrender, withdrawal (renewal) of licence</li> <li>• 3.28.2 – refused applications / withdrawals (lapsed/removed applications) – retain for 2 years from date of refusal or withdrawal of licence application</li> <li>• 3.28.3 – renewals (renewed registrations) – retain for 5 years from date of renewal of licence</li> <li>• 3.28.5 - Notings – retain for 7 years from date of notification of change</li> <li>• 3.28.6 - Mutual recognition requests (for confirmation) – retain until reference ceases</li> </ul> <p>3.32 Security Provider Licensing</p> <ul style="list-style-type: none"> <li>• 3.32.1 – registrations (applications) – retain for 7 years from the date of expiry, surrender or cancellation of the licence</li> <li>• 3.32.2 – withdrawals (lapsed/removed applications) – retain for 7 years from date of lapse or withdrawal of application</li> <li>• 3.32.3 – rejections (refused applications) – retain for 7 years from date of refusal of licence</li> <li>• 3.32.4 - Mutual recognition requests – retain for 1 year from date of last action</li> <li>• 3.32.5 – renewals – retain for 7 years from date of renewal of licence</li> <li>• 3.32.6 – Notings – retain for 7 years from date of notification of change</li> <li>• 3.32.7 - Mutual recognition requests (for confirmation) – retain until reference ceases</li> </ul>
1680	<p><b><i>Criminal history</i></b></p> <p>Records relating to criminal history applications or requests made by the agency and the subsequent results.</p>	<p><b>Background/business process:</b></p> <p>Upon receipt of a licence application, OFT licensing officers will request a criminal history check and in some instances a criminal intelligence report or other criminal information as part of application assessment and processing.</p> <p><b>Regulatory requirements:</b></p>



	<p><b>Disposal action -</b> Until suitability to hold a licence has been considered and the appeal period has expired</p>	<p><i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i> – Division 2 – Criminal history</p> <p><i>Introduction Agents Act 2001</i> – Division 1 – Applications for licence</p> <p><i>Motor Dealers and Chattel Auctioneers Act 2014</i> – Division 5 – Suitability of applicants</p> <p><i>Property Occupations Act 2014</i> – Division 8 – Suitability of applicants and licensees</p> <p><i>Second-hand Dealers and Pawnbrokers Act 2003</i> – Division 2 – Suitability of applicants and licensees – s.9 (3) The chief executive must destroy a written report about a person’s criminal history as soon as practicable after considering the applicant’s or licensee’s suitability to hold a licence</p> <p><i>Security Providers Act 1993</i> – Division 2 – Applications for licence</p> <p><i>Tattoo Parlours Act 2013</i> – Division 3 s20 – Commissioner to make security determinations about applicants and licensees</p> <p><i>Tourism Services Act 2003</i> – Division 2 – Suitability of registration</p> <p><i>Queensland Civil and Administrative Tribunal Act 2009</i> – Division 4 – Appeal provisions</p> <p><b>Business requirements:</b></p> <p>Criminal history checks must be destroyed by the agency as soon as practicable after considering the applicant’s or licensee’s suitability to hold a licence as per the legislation administered by the agency. For example: s.110(3) of the <i>Debt Collectors (Field Agents and Collection Agents) Act 2014</i>: The chief executive must -</p> <ol style="list-style-type: none"> <li>a) destroy a report about a person’s criminal history obtained under section 105 as soon as practicable after considering the report; and</li> <li>b) destroy a notice about a change in a person’s criminal history given under section 108 as soon as practicable after considering the notice.</li> </ol> <p>Suitability requirements under specific legislation must be met for a person or entity to hold a specific licence. These requirements include Queensland Police Service criminal history checks which are conducted on all licence applicants lodged with OFT including applications for renewal to ensure all suitability requirements are met and continue to be met.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Queensland State Archives - Department of Communities, Child Safety and Disability Services (QDAN 637 v2) – Reference number 1.2.5 - Criminal history checks – prospective adoptive parent records – Records relating to criminal history checks undertaken for prospective adoptive parents in accordance with the <i>Adoption Act 2009</i> – Temporary – Retain until applicant notified of assessment outcome and</p>
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		<p>finalisation of all appeals.</p> <p><i>Queensland State Archives - General Retention and Disposal Schedule (GRDS) – Criminal history checks – disposal authorisation number 1240 – Until assessment of individual is complete.</i></p> <p><i>Queensland State Archives Liquor and Gaming Sector Retention and Disposal Schedule for investigations case files other – disposal authorisation number 1615 – retain for 10 years from the date of finalisation of the investigation.</i></p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.2.4 Auctioneer Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal is finalised</li> <li>• 3.5.4 Commercial Agent Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal is finalised</li> <li>• 3.15.6 Introduction Agent Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal period has expired</li> <li>• 3.20.4 Motor Dealer Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal period has expired</li> <li>• 3.26.4 Real Estate Agents Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal period has expired</li> <li>• 3.28.4 Restricted Letting Agents Licensing – criminal histories – retain until suitability to hold a licence has been considered and the appeal period has expired or appeal period has expired</li> </ul>
<b>Title</b>	<b>Scope Note</b>	
<b>REGISTRATION SERVICES</b>	<i>The activity of maintaining information regarding organisations regulated by OFT. Organisations include Incorporated Associations, Charities, Cooperatives, Limited Partnerships and Funeral Benefit Businesses. Activities include, but are not limited to, registrations, rejection, cancellations, certification and renewal or revocation of registrations.</i>	
<b>Activities</b>		
<p>Registration of Entities</p> <p>Funeral Benefit Businesses and Funeral Benefit Trust Funds</p>		

1681	<p><b>Registration of a cooperative</b></p> <p>Records relating to the registration of a cooperative by the agency for suitability, probity and adherence with relevant legislation.</p> <p>Includes providing ongoing advice, information and support to entity management on meeting regulatory requirements.</p> <p><b>Disposal action -</b></p> <p>15 years after deregistration of entity.</p>	<p><b>Background/business process:</b></p> <p>The Registration Services Unit of OFT regulates a range of activities in the community conducted by entities, including incorporated associations, charities, cooperatives and limited partnerships. OFT assesses applications lodged by entities for suitability, probity and adherence with the legislation and provides ongoing advice, information and support to entity management on meeting regulatory requirements. OFT also provides significant information about entities on a public register, which is open to the public for inspection.</p> <p>As part of the registration of cooperatives under the <i>Cooperatives Act 1997</i> a constitutional document under which the organisation is governed forms part of the register. The registered constitutional document may be the document adopted when the cooperative commenced. The registration of these organisations may be under previous legislation. As a consequence, records are held which may be 50 – 60 years old. On isolated occasions, the old constitutional documents have value and for some organisations may have currency. There are approximately 170 registered cooperatives in Qld.</p> <p><b>Regulatory requirements:</b></p> <p><i>Cooperatives Act 1997 - s.439 Disposal of records by registrar</i></p> <p>Subject to the <i>Public Records Act 2002</i>, the registrar may, if the registrar considers it is no longer necessary or desirable to retain them, destroy or dispose of any of the following -</p> <ul style="list-style-type: none"> <li>(a) an annual report or balance sheet filed more than 7 years ago;</li> <li>(b) a document creating or evidencing a charge, or the complete or partial satisfaction of a charge, if a memorandum of satisfaction of the charge was registered more than 7 years ago;</li> <li>(c) another document (other than the rules or a document affecting the rules of a cooperative) filed, given or registered more than 15 years ago;</li> <li>(d) a document filed, given or registered in relation to a cooperative that was deregistered or ceased to be registered more than 15 years ago;</li> <li>(e) a document of which a transparency or electronic image has been incorporated with a register kept by the registrar or is otherwise kept in the office of the registrar.</li> </ul> <p><b>Business requirements:</b></p> <p>Constitutional requirements can mean some records must be kept for the length of time the entity is registered. As an example, changes in entity rules or requests for extension of time can occur on more than one occasion throughout an entities registration and must be kept as part of an entity's constitution.</p> <p>As per the legislative requirements under the above Act the records relating to the constitution of the entity must be retained for a minimum of 15 years whereas the annual reporting requirements can be</p>
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retained for a shorter period of time (7yrs). The disposal requirements in the above Act are consistent with *most* other states and territories as the relevant Victorian act formed the basis for management of cooperatives in Qld.

**Community expectation:**

OFT undertakes these processes to ensure the perceptions held by the public of legitimacy, good governance, accountability and transparency of these entities are satisfied. Setting up a regulatory framework guides the conduct of the entities and protects the public interest.

**Comparison with other schedules' retention period:**

National Archives of Australia – *Records Authority Australian Securities and Investments Commission* (2016/00525230) or records documenting:

- Corporate, finance and markets regulation activities, other than those covered in classes 62185 to 62187 – destroy 10 years after action completed

Public Records Office of Victoria – *Retention and Disposal Authority for Records of Consumer Affairs Functions* (PROS 11/04) for:

- summary record of registered incorporated associations, limited partnerships and cooperatives – reference number 3.1.1 - destroy 15 years after registration ceases
- records documenting the registration, renewal and management of incorporated associations, limited partnerships and cooperatives. Includes application, records documenting variations to registrations and the ongoing administration of the body – reference number 3.1.2 - destroy 15 years after registration ceases
- records documenting the monitoring of annual financial statements and independent audits in order to ensure that the organisation is eligible to renew their registration - reference number 3.1.5 - destroy 15 years after registration ceases

Tasmanian Archive and Heritage Office – *Disposal schedule for Business Affairs Office of Department of Justice and Industrial Relations (17-05-2000)* for:

- Business names files – reference number 1.1.2 – destroy 12 years after registration lapses
- registers or lists of miscellaneous bodies required to deposit documents and/or returns with the Registrar (later Commissioner) - reference number 1.2.1 - permanent
- documents and returns deposited in fulfilment of the requirements of registration imposed by statute – reference number 1.2.2 - permanent

**Previous schedules:**

QDAN 586 v2 reference:

		<p>3.11 Cooperative Register Maintenance</p> <ul style="list-style-type: none"> <li>• 3.11.1 – Public register (searchable records) – retain for 7 years from date of deregistration of cessation of cooperative</li> <li>• 3.11.2 – working register (non-searchable records) - retain for 7 years from date of deregistration of cessation of cooperative</li> <li>• 3.11.3 – Register of Cooperative charges (referred to s18, schedule 3, Cooperatives Act 1997) – Retain for 7 years from date of receipt of memorandum of satisfaction</li> </ul>
1682	<p><b>Registration of an entity</b> Records relating to the registration of an entity, other than a cooperative, by the agency for suitability, probity and adherence with relevant legislation that may include but not limited to:</p> <ul style="list-style-type: none"> <li>• incorporated association</li> <li>• charity</li> <li>• limited partnerships</li> </ul> <p>Includes providing ongoing advice, information and support to entity management on meeting regulatory requirements.</p> <p><b>Disposal action -</b> 7 years after deregistration of entity.</p>	<p><b>Background/business process:</b></p> <p>The Registration Services Unit of OFT regulates a range of activities in the community conducted by entities, including incorporated associations, charities and limited partnerships. OFT assesses applications lodged by entities for suitability, probity and adherence with the legislation and provides ongoing advice, information and support to entity management on meeting regulatory requirements. OFT also provides significant information about entities on a public register, which is open to the public for inspection.</p> <p>As part of the registration of associations under the <i>Associations Incorporation Act 1981</i> (AI Act) and charitable organisations under the <i>Collections Act 1966</i>, a constitutional document under which the organisation is governed forms part of the register. For charities the registered constitutional document may be the document adopted when the charity commenced. The registration of these organisations may be under previous legislation. As a consequence, records are held which may be 50 – 60 years old. On isolated occasions, the old constitutional documents have value and for some organisations may have currency. There are approximately 20,000 registered associations in Qld.</p> <p><b>Regulatory requirements:</b></p> <ul style="list-style-type: none"> <li>• <i>Charitable Funds Act 1958</i></li> <li>• <i>Collections Act 1966</i></li> <li>• <i>Partnership Act 1891</i></li> <li>• <i>Religious Educational and Charitable Institutions Act 1861 (by virtue of section 144 of Associations Incorporation Act 1981)</i></li> <li>• <i>Roman Catholic Church (Incorporation of church Entities) Act 1994</i></li> </ul> <p><i>Associations Incorporation Regulation 1999</i> – schedule 5 Additional accounting requirements</p> <p>8 An association must keep its financial records -</p>

- (a) in the State; and
- (b) for at least 7 years.

*Collections Regulation 2008 s.29* – prescribed period for retention of record of appeal Act s.30

For section 30(1)(e) of the Act, a promoter of an appeal for support must keep in his or her custody the following records for the period stated for the records -

- (a) receipt books, receipts, cancelled cheques and correspondence about accounts - 6 years;
- (b) correspondence other than about accounts - 1 year.

Maximum penalty - 6 penalty units.

**Business requirements:**

Constitutional requirements can mean some records must be kept for the length of time the entity is registered. As an example, changes in entity rules or requests for extension of time can occur on more than one occasion throughout an entities registration and must be kept as part of an entity’s constitution.

These records are required for 7 years after deregistration of an entity for requirements under s.10 of the *Limitations of Actions Act 1974*, business need, and as per above regulatory requirements.

In the previous schedule, QDAN582v2, records relating to charities are held for 20 years from date of deregistration. Upon re-appraisal these records are required for the same length of time as the constitution documents for the other entities (other than cooperatives). The Australian Charities and Not-for-profits Commission provides a period of 7 years after which a registered charity may destroy its records as long as it has no other record-keeping obligations with other regulators. Please see [www.acnc.gov.au/ACNC/Manage/Record\\_keeping](http://www.acnc.gov.au/ACNC/Manage/Record_keeping)

**Community expectation:**

OFT undertakes these processes to ensure the perceptions held by the public of legitimacy, good governance, accountability and transparency of these entities are satisfied. Setting up a regulatory framework guides the conduct of the entities and protects the public interest.

**Comparison with other schedules' retention period:**

National Archives of Australia – *Records Authority Australian Securities and Investments Commission* (2016/00525230) or records documenting:

- Corporate, finance and markets regulation activities, other than those covered in classes 62185 to 62187 – destroy 10 years after action completed

Public Records Office of Victoria – *Retention and Disposal Authority for Records of Consumer Affairs Functions* (PROS 11/04) for:

- summary record of registered incorporated associations, limited partnerships and cooperatives –

reference number 3.1.1 - destroy 15 years after registration ceases

- records documenting the registration, renewal and management of incorporated associations, limited partnerships and cooperatives. Includes application, records documenting variations to registrations and the ongoing administration of the body – reference number 3.1.2 - destroy 15 years after registration ceases
- records documenting the monitoring of annual financial statements and independent audits in order to ensure that the organisation is eligible to renew their registration - reference number 3.1.5 - destroy 15 years after registration ceases
- records documenting the registration, renewal and management of fundraisers – reference number 4.2.2 – destroy 12 years after registration ceases.

Tasmanian Archive and Heritage Office – *Disposal schedule for Business Affairs Office of Department of Justice and Industrial Relations (17-05-2000)* for:

- registers or lists of miscellaneous bodies required to deposit documents and/or returns with the Registrar (later Commissioner) - reference number 1.2.1 - permanent
- documents and returns deposited in fulfilment of the requirements of registration imposed by statute – reference number 1.2.2 - permanent

**Previous schedules:**

QDAN 586 v2 reference:

3.1 Associations Register Maintenance

- 3.1.1 – Associations (incorporated) – retain for 7 years from date of deregistration of association
- 3.1.5 – Variations - retain for 7 years from date of deregistration of association

3.4 Charities Register Maintenance

- 3.4.1 – Public register (searchable records) – retain for 20 years from date of deregistration
- 3.4.2 – Working register (non-searchable records) - retain for 20 years from date of deregistration
- 3.4.6 – Incorporation/approval of variation of schemes – retain for 7 years from date of deregistration
- 3.4.7 – records relating to applications for variations of schemes under the *Charitable Funds Act 1958* – retain for 7 years from date of approval to variation to scheme
- 3.4.8 – letters patent – application, rule, change of name and cancellations – retain for 7 years from date of deregistration or cancellation

3.17 Limited partnerships Register Maintenance

		<ul style="list-style-type: none"> <li>• 3.17.1 – Limited partnerships (registered) – retain for 7 years from date of cessation of limited partnership</li> </ul> <p>3.17.2 – Limited partnership register – retain until superseded</p>
<p>1683</p>	<p><b>Regulatory reporting – registration renewals and updates</b></p> <p>Records relating to lodgement of updates, financial reports and details of changes by a registered entity.</p> <p><b>Disposal action -</b></p> <p>7 years after business action completed.</p>	<p><b>Background/business process:</b></p> <p>The Registration Services Unit of OFT regulates a range of activities in the community conducted by entities, including incorporated associations, charities, cooperatives and limited partnerships. OFT assesses applications lodged by entities for suitability, probity and adherence with the legislation and provides ongoing advice, information and support to entity management on meeting regulatory requirements. OFT also provides significant information about entities on a public register, which is open to the public for inspection.</p> <p>All registered organisations are required to lodge annually a document giving details of their financial position for the financial year, and details of some or all of its governing body. They are also required to provide additional documents notifying of any changes.</p> <p><b>Regulatory requirements:</b></p> <p>Regulatory requirements under fair trading legislation are numerous and include the management of property and affairs of community groups. However, the majority of records created within Registration Services are subject to the following legislation and subsequent regulations:</p> <ul style="list-style-type: none"> <li>• <i>Associations Incorporation Act 1981</i></li> <li>• <i>Charitable Funds Act 1958</i></li> <li>• <i>Collections Act 1966</i></li> <li>• <i>Cooperatives Act 1997</i></li> <li>• <i>Partnership Act 1891</i></li> <li>• <i>Religious Educational and Charitable Institutions Act 1861 (by virtue of section 144 of Associations Incorporation Act 1981)</i></li> <li>• <i>Roman Catholic Church (Incorporation of church Entities) Act 1994</i></li> </ul> <p><i>Cooperatives Act 1997 - s.439 Disposal of records by registrar</i></p> <p>Subject to the <i>Public Records Act 2002</i>, the registrar may, if the registrar considers it is no longer necessary or desirable to retain them, destroy or dispose of any of the following -</p> <p>(a) an annual report or balance sheet filed more than 7 years ago;</p> <p>(b) a document creating or evidencing a charge, or the complete or partial satisfaction of a charge, if</p> <p>a memorandum of satisfaction of the charge was registered more than 7 years ago;</p> <p>(c) another document (other than the rules or a document affecting the rules of a cooperative) filed,</p>



given or registered more than 15 years ago;  
 (d) a document filed, given or registered in relation to a cooperative that was deregistered or ceased to be registered more than 15 years ago;  
 (e) a document of which a transparency or electronic image has been incorporated with a register kept by the registrar or is otherwise kept in the office of the registrar.

*Collections Regulation 2008* s.29 – prescribed period for retention of record of appeal Act s.30

For section 30(1)(e) of the Act, a promoter of an appeal for support must keep in his or her custody the following records for the period stated for the records—

- (a) receipt books, receipts, cancelled cheques and correspondence about accounts—6 years;
- (b) correspondence other than about accounts—1 year.

Maximum penalty—6 penalty units.

*Associations Incorporation Regulation 1999* – schedule 5 Additional accounting requirements

- 8 An association must keep its financial records -
- (a) in the State; and
  - (b) for at least 7 years.

**Business requirements:**

These records are not required under OFT legislation or its business requirements or as part of the entity's constitution. The rules of an association retain relevance over the life of the association. However, details of its financial activities or other documents do not.

The retention for these records aligns with:

- s.439 of the *Cooperatives Act 1997* – the register keeps certain records for 7 years
- s.29 of the *Collections Regulation 2008* – keep certain records about accounts for 6 years
- schedule 5 of the *Associations Incorporation Regulation 1999* – an association must keep its financial records for 7 years
- s.10(1) of the *Limitation of Actions Act 1974*, litigation must be brought within 6 years of a breach of contract
- class 1099 in the GRDS for records relating to payment or receipt of money (7yrs after financial year to which the records relate)

**Comparison with other schedules' retention period:**

Queensland State Archives – *General Retention and Disposal Schedule (GRDS)* – for records relating to the payment or receipt of money and the financial management of the agency's assets – disposal authorisation number 1099 – 7 years after the financial year to which the records relate.

Public Records Office of Victoria – *Retention and Disposal Authority for Records of Consumer Affairs Functions* (PROS 11/04) for:

- summary record of registered incorporated associations, limited partnerships and cooperatives – reference number 3.1.1 - destroy 15 years after registration ceases
- records documenting the registration, renewal and management of incorporated associations, limited partnerships and cooperatives. Includes application, records documenting variations to registrations and the ongoing administration of the body – reference number 3.1.2 - destroy 15 years after registration ceases
- records documenting the monitoring of annual financial statements and independent audits in order to ensure that the organisation is eligible to renew their registration - reference number 3.1.5 - destroy 15 years after registration ceases
- records documenting the registration, renewal and management of fundraisers – reference number 4.2.2 – destroy 12 years after registration ceases.

**Other comments/factors for consideration:**

The Australian Charities and Not-for-profits Commission provides a period of 7 years after which a registered charity may destroy its records as long as it has no other record-keeping obligations with other regulators. Please see [www.acnc.gov.au/ACNC/Manage/Record\\_keeping](http://www.acnc.gov.au/ACNC/Manage/Record_keeping)

The ATO requires businesses and non-profit organisations to keep business records for at least 5 years. Please see [www.ato.gov.au/Non-profit/your-organisation/records,-reporting-and-paying-tax/record-keeping](http://www.ato.gov.au/Non-profit/your-organisation/records,-reporting-and-paying-tax/record-keeping)

This information provides further support that OFT need only retain these records for 7 years.

**Previous schedules:**

QDAN 586 v2 reference:

- 3.1 Associations Register Maintenance
  - 3.1.2 – Annual returns (financials) – retain for 7 years from date of last return
  - 3.1.4 – Rejections (refused applications) – retain for 5 years after date of refusal of application
- 3.4 Charities Register Maintenance
  - 3.4.3 – Assignments (charitable appeals) – retain for 7 years from finalisation of appeal
  - 3.4.5 – Rejections (refused applications) – retain for 7 years after date of rejection of application

1684	<p><b><i>Withdrawals (withdrawn or lapsed applications)</i></b></p> <p>Records relating to applications withdrawn by applicant or lapsed due to incompleteness.</p> <p><b>Disposal action -</b></p> <p>1 year after date of withdrawal or lapse.</p>	<p><b>Background/business process:</b></p> <p>OFT's Registration Services Unit assesses applications lodged by entities, including incorporated associations, charities, cooperatives and limited partnerships. Some applicants may decide not to pursue a registration or simply fail to complete the requirements of a registration. In these circumstances, OFT will dispose of the records relating to the application one year after the date of withdrawal or lapse.</p> <p><b>Regulatory requirements:</b></p> <p>While registered entities are subject to OFT regulation, there are no regulatory requirements for withdrawn or lapsed applications. Destruction of these records are a business decision made by OFT.</p> <p><b>Business requirements:</b></p> <p>OFT provides the applicant with a year to provide any further information that may be required to complete an application. If information is not received, the application records are destroyed.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Public Records Office of Victoria – <i>Retention and Disposal Authority for Records of Consumer Affairs Functions</i> (PROS 11/04) – Records documenting application for licensing or registration that are withdrawn before a determination is made, or are not completed, by the applicant – Temporary – Destroy 1 year after application is withdrawn or last contact made (whichever is the latter).</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.1.3 (Associations) Withdrawals (lapsed/removed applications) – retain for 1 year after date of lapse or withdrawal of application</li> <li>• 3.4.4 (Charities) Withdrawals (lapsed/removed applications) - retain for 1 year after date of lapse or withdrawal of application</li> </ul>
1685	<p><b><i>Funeral benefit businesses and Funeral Benefit Trust Fund</i></b></p> <p>Records relating to the management of funeral benefit matters in accordance with the</p>	<p><b>Background/business process:</b></p> <p>OFT no longer registers funeral providers. Its main function is to make claim decisions on existing agreements with corporations already registered prior to 30 November 2003. From 1 December 2003, OFT monitors audit reporting of funeral providers not registered under specific circumstances.</p> <p>The business processes for Funeral Benefit matters fall into three categories under the <i>Funeral Benefit Business Act 1982</i> (the Act).</p>

	<p><i>Funeral Benefit Business Act 1982.</i></p> <p>Records relating to:</p> <ul style="list-style-type: none"> <li>• funeral benefit businesses including: <ul style="list-style-type: none"> <li>– applications before 1 December 2003</li> <li>– rules</li> <li>– changes</li> <li>– annual returns</li> <li>– audit reports</li> </ul> </li> <li>• valuations made by the State Actuary of the Funeral Benefits Trust Fund including letters to directors of Funeral Benefit businesses detailing: <ul style="list-style-type: none"> <li>– directions</li> <li>– various claims</li> <li>– benefits payable</li> </ul> </li> <li>• businesses registered before the <i>Funeral Benefit</i></li> </ul>	<ul style="list-style-type: none"> <li>• Part 3 of the Act relates to funeral benefit agreements issued between 1939 and 1974 by Alex Gow Pty Ltd and Metropolitan Funeral Services Pty Ltd. In 1942 the Sickness, Medical and Funeral Benefits Trust Fund was established and maintained by a Board of Trustees which met monthly to approve claims lodged by the two companies. The Fund became the Funeral Benefit Trust Fund on 1 September 1984. The Board was a statutory body which was abolished in June 2013 after which OFT became the claim decision maker.</li> <li>• Part 4 of the Act relates to funeral benefit businesses registered with OFT between 1984 and 2003 and which continue to have obligations under the Act.</li> <li>• Part 7 of the Act relates to funeral benefit providers issuing agreements after 1 December 2003. There are no OFT registration requirements for these providers. However, entities not authorised as deposit-taking institutions under the <i>Banking Act 1959</i>, or registered as a company under the <i>Life Insurance Act 1995</i>, are required to maintain a trust account, have that trust account audited and lodge a copy of the audit report with OFT.</li> </ul> <p><b>Regulatory requirements:</b> <i>Funeral Benefit Business Act 1982</i></p> <p><b>Business requirements:</b> OFT is required to ensure appropriate processes are followed by Queensland funeral benefit providers. With regard to matters falling under Part 3 of the Act, procedures and records need to be kept for 20 years after the eventual closure of the funeral benefit trust fund as possible legal challenges may arise in the future.</p> <p><b>Community expectation:</b> The Community would expect OFT to maintain records of agreements entered into between 1939 and 1974 and continue to ensure current and new funeral benefit providers comply with relevant legislation.</p> <p><b>Comparison with other schedules' retention period:</b> As these activities (under this class) differ from other jurisdictions, there is no specific comparison with other schedules. However, the following may assist in justifying the retention period provided in the draft schedule. Public Records Office of Victoria - <i>Victoria Consumer Affairs Retention and Disposal Authority for Records of Consumer Affairs functions</i> (PROS 11.04) – Class No. – 2.0.0 to 2.1.2 – Registration and licensing of Businesses and Occupations – which includes Funeral providers. The disposal action in this schedule is to destroy 12 years after licence or registration ceases.</p>
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	<p><i>Business Act 1982.</i></p> <p><b>Disposal action -</b> 20 after closure of fund or cancellation of registration, whichever relates.</p>	<p><b>Other comments/factors for consideration:</b></p> <p>It should be noted records accumulated and created under part 3 of the Act I must be retained for 20 years after closure of the Funeral Benefit Trust Fund. It is not known when the fund will cease. Nevertheless, records of this nature will be forwarded to an off-site storage facility until closure of the fund at which time the records will be assessed for destruction 20 years from the date the fund was closed.</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.14.4 – Funeral Benefits Trust Fund Board of Trustees – retain for 20 years after last action</li> <li>• 3.14.5 – Funeral Benefits Trust Fund Board of Trustees – appointment of member to the board – retain for 5 years after last action</li> <li>• 3.14.6 – Records relating to the State Actuary of the fund - retain for 20 years after last action</li> <li>• 3.14.7 – Copies of contracts, including precedent examples - retain for 20 years after last action</li> <li>• 3.14.8 – Funeral Benefits (registered) - retain for 20 years after last action</li> </ul>
<p>1686</p>	<p><b>Claim determination</b></p> <p>Records relating to the processing and payment of claims under the Funeral Benefit Trust Fund by the agency.</p> <p>Records relating to:</p> <ul style="list-style-type: none"> <li>• funeral benefit claim determination</li> <li>• funeral benefit claim determination appeals which <u>do not</u> set a precedent in decision making.</li> </ul>	<p><b>Background/business process:</b></p> <p>The Funeral Benefit Trust Fund was established under Part 3 of the Act. The contributors are persons who entered into funeral benefit agreements with either one of two corporations operating in the funeral industry - Alex Gow Pty Ltd and Metropolitan Funeral Services Pty Ltd between 1939 and 1974.</p> <p>The money in the Fund is invested with the Queensland Treasury Corporation and can only be used to pay funeral benefits to contributors or persons, on whose behalf contributions were made, and for other limited purposes specified under the Act. The administration of the Fund resides with the Department of Justice and Attorney-General, as the Registrar of Funeral Benefit Businesses.</p> <p>Registration Services staff process claims received monthly from the two funeral providers up to an approval stage. The claims are checked against OFT’s database to ensure no previous claim has been lodged. Upon appropriate delegate approval, a general purpose expenditure voucher is made available to a departmental finance officer for the claims to be paid.</p> <p><i>OFT’s Funeral Benefit Trust Fund Policy</i></p> <p>Claims are paid in accordance with the Registrar’s policy following consultation with the State Actuary. The policy, which may alter in accordance with the recommendation of the State Actuary, provides the basis for making claims. Under the policy, delegates of the Registrar must pay the claim on the basis of</p>

	<p>(Relates to decisions made by the former Board of Trustees and OFT).</p> <p><b>Disposal action -</b></p> <p>7 years after the financial year to which the records relate.</p>	<p>a table provided by the State Actuary. The only subjective decision able to be made is when a claim is made for a benefit and the funeral service provided was not by the applicable funeral operator. The delegate's decision is whether the claimant was aware of the existence of the agreement and therefor may be paid the full benefit rather than a surrender value.</p> <p><b>Regulatory requirements:</b></p> <p><i>Funeral Benefit Business Act 1982 – Section 16(2), 18 and 62</i></p> <p><i>An Act to consolidate and amend the law relating to funeral benefit businesses and registration thereof and for connected purposes.</i></p> <p><b>Business requirements:</b></p> <p>The justification for the retention period is to align with classes in the GRDS relating to payment and receipt of money. These classes were previously retained for 5 years under QDAN586v2 but now align with recently authorised GRDS. The QAO and Treasury was consulted on the development of class 1099 in the GRDS and the 7 years after financial years for financial audit purposes.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Queensland State Archives – <i>General Retention and Disposal Schedule (GRDS)</i> – for records relating to the payment or receipt of money and the financial management of the agency's assets – disposal authorisation number 1099 – 7 years after the financial year to which the records relate.</p> <p>National Archives of Australia – <i>Records Authority Australian Securities and Investments Commission (2016/00525230)</i> or records documenting consumer protection activities, other than those covered in classes 62203, 62204, 62205 - destroy 10 years after action completed</p> <p>Public Records Office of Victoria - <i>Victoria Consumer Affairs Retention and Disposal Authority for Records of Consumer Affairs functions (PROS 11.04)</i> – for records documenting payments made out of trust funds to settle claims lodged by consumers or as loans to applicants – reference number 8.1.2 – destroy 7 years after the completion of the financial year in which the record was created.</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.14.1 – Funeral Benefit Determinations - Retain for 5 years from date of finalisation of claim</li> <li>• 3.14.2 – Funeral Benefit Appeals - Retain for 5 years from date of finalisation of appeal</li> </ul>
<p>1687</p>	<p><b><i>Claim determination – significant appeals</i></b></p>	<p><b>Background/business process:</b></p> <p>This class covers records of appeals against a decision made by the agency to pay or not to pay a</p>

	<p>Records relating to appeals made against a claim determination decision made by the agency and/or Board of Trustees that are significant.</p> <p><b>Disposal action -</b> Permanent. Transfer to QSA after business action completed.</p>	<p>claim, and the appeal is deemed significant. Records relating to all other appeals are covered under 1686.</p> <p>Claims are paid in accordance with the Registrar's policy following consultation with the State Actuary. The policy, which may alter in accordance with the recommendation of the State Actuary, provides the basis for making claims. Under the policy, delegates of the Registrar must pay the claim on the basis of a table provided by the State Actuary. The only subjective decision able to be made is when a claim is made for a benefit and the funeral service provided was not by the applicable funeral operator. The delegate's decision is whether the claimant was aware of the existence of the agreement and therefore may be paid the full benefit rather than a surrender value.</p> <p><b>Permanent retention criteria in accordance with Queensland State Archives Appraisal Statement:</b> Characteristic 2 – Primary functions and programs of government Characteristic 4 – Significant Impact on Individuals</p> <p><b>Comparison with other schedules' retention period:</b> Queensland State Archives – <i>General Retention and Disposal Schedule (GRDS)</i> – for records relating to significant appeals – disposal authorisation number 1123 – permanent transfer to QSA after business action completed.</p> <p><b>Previous schedules:</b> QDAN 586 v2 reference:</p> <ul style="list-style-type: none"> <li>• 3.14.3 – Funeral Benefit Appeals which set a precedent – retain permanently</li> </ul>
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## LEGACY RECORDS

### Activities

### BUSINESS NAMES

*The registration of Business Names was transferred to the Australian Securities and Investments Commission (ASIC) on 28 May 2012. The Queensland Business Names (Commonwealth Powers) Act 2011 (the BNCP Act) is administered by the OFT, and was enacted to:*

- *cease the existing Queensland business names register by repealing the Business Names Act 1962;*
- *transfer data from the Queensland register to the new Commonwealth register; and*
- *provide transitional arrangements after the cessation of the Queensland register.*

*The BNCP Act provides for OFT to transfer information to ASIC electronically or in an approved form but does not provide for the physical documents*

to be transferred to ASIC. Therefore, OFT will retain them as noted below.

OFT continued to deal with applications for renewal until 28 August 2012 and the information was provided to ASIC.

1688	<p><b>Business name registration</b></p> <p><b>Disposal action</b> - 7 years after business name information is transferred to ASIC (Destruction date September 2019)</p>	<p>Records created up to and including 28 August 2012</p> <p><b>Business requirements:</b></p> <p>Under s.25 of the now repealed <i>Business Names Act 1962</i> records relating to business names were retained for 7 years.</p> <p>ASIC did not request the transfer of physical records and in the 5 years since the administration of business names moved to the commonwealth ASIC has not requested access to the physical records. Approximately 1 request a year is received from the community for access to these records.</p> <p>Under the Intergovernmental agreement for business names agreement Qld is to provide access to records relating to business names to ASIC when required. However the agreement did not stipulate a timeframe they request the records to be required.</p> <p><b>Comparison with other schedules' retention period:</b></p> <p>Tasmanian Archive and Heritage Office – <i>Disposal schedule for Business Affairs Office of Department of Justice and Industrial Relations (17-05-2000)</i> for Business names files – reference number 1.1.2 – destroy 12 years after registration lapses</p> <p>National Archives of Australia – <i>Records Authority Australian Securities and Investments Commission (2016/00525230)</i> or records documenting - Corporate, finance and markets regulation activities, other than those covered in classes 62185 to 62187 – destroy 10 years after action completed</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference: classes under 3.3 Business names register maintenance</p>
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**PERSONAL PROPERTY SECURITIES**

On 30 January 2012, *Personal Property Securities (PPS) reform* brought the different Commonwealth, State and Territory laws and registers regarding security interests in personal property under one national system. PPS reform introduced the *Personal Property Securities Act 2009 (Cth)* and a single national online PPS Register was created. The *PPS (Ancillary Provisions) Act 2010* contains transitional provisions which require the Chief Executive under Queensland's repealed Acts to keep a copy of the information contained in the former register, as it existed immediately before the repeals, for 7 years after the repeals.

1689	<p><b>Registration of encumbered vehicles</b></p>	<p>Records created up to and including 30 January 2012</p>
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	<p><b>and property securities</b></p> <p><b>Disposal action</b> - 7 years after legislation repealed (Destruction date February 2019)</p>	<p><b>Business requirements:</b></p> <p>s.60(3) of the <i>Personal Property Securities (Ancillary Provisions) Act 2010</i> the chief executive must keep a copy of the information in the former register, as it existed immediately before the repeal, for 7 years after the repeal.</p> <p><b>Previous schedules:</b></p> <p>QDAN 586 v2 reference: classes under 3.21 Motor vehicle securities register maintenance</p>
<p><b>LAND SALES</b></p> <p><i>In September 2014, the Land Sales and Other Legislation Amendment Bill 2014 was passed by the Queensland Parliament. The Bill included the following two significant administrative changes for the Department:</i></p> <ul style="list-style-type: none"> <li><i>the chief executive will no longer be required to process applications for exemptions from the Land Sales Act 1984 for particular off the plan sales. The application process will be replaced by an automatic exemption.</i></li> <li><i>a regulation will no longer be required to be made to extend the timeframe for when a seller of a proposed lot in a community titles scheme must give a buyer the title transfer. Instead, buyers and sellers of these proposed lots will be able to contractually agree to the timeframe (up to a maximum of 5 ½ years).</i></li> <li><i>The amendments to the Land Sales Act 1984 commenced on 1 December 2014.</i></li> </ul>		
1690, 1691, 1692	<p><b>Exemptions (approved applications)</b></p> <p>Records relating to applications for exemption under former section 19 of the <i>Land Sales Act 1984</i> relating to the subdivision and development of land.</p> <p><b>Disposal action</b> - 10 years after business action completed.</p> <p><b>Extension of time (approved applications)</b></p> <p>Records relating to</p>	<p>Records created up to and including November 2014</p> <p>Amendments to the <i>Land Sales Act 1984</i> commenced on 1 December 2014 replacing the requirement to apply for plan sale exemptions with an automatic exemption.</p> <p>OFT maintains an electronic record of land sales it has issued since 1996 albeit the recoding of full details did not commence until 2006. Accordingly, OFT is able to provide advice on whether an exemption was granted since 1996.</p> <p>Records created up to and including November 2014</p> <p><b>Previous schedules:</b></p> <p>QDAN586 3.16 - Land Sales Exemptions</p> <p>3.16.1 – <i>Exemptions (approved applications) - Records relating to applications for exemption from the provisions of the Land Sales Act 1984, relating to the subdivision and the development of land - Retain for 10 years after last action.</i></p> <p>3.16.2 – <i>Extensions of time (approved applications) - Records relating to applications for extensions of</i></p>

	<p>applications for extension of time requests under former section 28 of the <i>Land Sales Act 1984</i> to enable the land vendor to provide the purchaser with a registrable instrument.</p> <p><b>Disposal action</b> - 7 years after expiry of the extension of time</p>	<p><i>time under section 28 of the Land Sales Act 1984, to enable the land vendor to provide the purchaser with a registrable instrument - Retain for 7 years after expiry of the extension of time.</i></p>
<p>6.3.3</p>	<p><b><i>Withdrawals (lapsed/removed applications)/rejections (refused applications)</i></b></p> <p>Records relating to withdrawn or rejected applications for exemptions and extensions of time under former sections 19 and 28 of the <i>Land Sales Act 1984</i>.</p> <p><b>Disposal action</b> - 1 year after business action completed.</p>	<p>Records created up to and including November 2014</p> <p><b>Previous schedules:</b></p> <p>QDAN586 3.16 - Land Sales Exemptions</p> <p><i>3.16.3 – Withdrawals (lapsed/removed applications) - Records relating to withdrawn or rejected applications for exemptions and extensions of time under section 28 of the Land Sales Act 1984 - Retain for 1 year after last action.</i></p>