

**Retention and Disposal Authority for Records of the Office of the
Chief Parliamentary Counsel**

Authority number: PROS 22/02



PROS 22/02

**Retention and Disposal
Authority for Records of the
Office of the Chief
Parliamentary Counsel**

Status Date: 11/01/2022

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INTRODUCTION

Administrative Context

Context

The Office of the Chief Parliamentary Counsel (OCPC) is an Administrative Office of the Department of Premier and Cabinet.

The role of Parliamentary Draftsman was first created in 1879 as a "parliamentary and professional assistant to the law officers of the Crown". The office continued to provide drafting services to Government until 1970, when the title of the position was changed to Chief Parliamentary Counsel to recognise the wider role played by the office. This role was further expanded in 1996, when the office assumed the role of Government Printer (the publication of legislation and legislative information) following the closure of the Government Printing Office.

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Retention and Disposal Authority for Records of the Office of the Chief Parliamentary Counsel

Authority number: PROS 22/02

Retention and Disposal Authority No	PROS 22/02
Scope	This retention and disposal authority covers records documenting the function of legislative drafting and publication in Victoria, carried out by the Office of the Chief Parliamentary Counsel.
Status	Issued by Keeper
Issue Date	11/01/22

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List of Functions and Activities covered

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2	LEGISLATIVE PUBLICATION		13

Retention and Disposal Authority for Records of the Office of the Chief Parliamentary Counsel

Authority number: DRAFT

Introduction

Purpose of this Authority

The purpose of this Authority is to provide a mechanism for the disposal of public records in accordance with the *Public Records Act 1973*.

The Authority:

- identifies records which are worth preserving permanently as part of Victoria's archival heritage
- prevents the premature destruction of records which need to be retained for a specified period to satisfy legal, financial and other requirements of public administration, and
- authorises the destruction of those records not required permanently.

Context of this Authority

Public Record Office Victoria Standards

This Authority should be used in conjunction with the Standards issued by the Keeper of Public Records under Section 12 of the *Public Records Act 1973*. Copies of all relevant PROV standards, specifications and regulatory advice can be downloaded from www.prov.vic.gov.au. These documents set out the procedures that must be followed by Victorian public offices.

Disposal of records identified in the Authority

Disposal of public records identified in this Authority must be undertaken in accordance with the requirements of Public Record Office Standard PROS 10/13 *Disposal*.

It is a criminal offence to unlawfully destroy a public record under s 19(1) of the *Public Records Act 1973*.

The destruction of a public record is not unlawful if done in accordance with a Standard established under s 12 of the *Public Records Act 1973*.

This Standard (also known as an Authority) authorises the disposal of public records as described within its provisions. However, disposal is **not** authorised under this Standard if it is reasonably likely that the public record will be required in evidence in a current or future legal proceeding.

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For the purposes of this Retention and Disposal Authority, a 'legal proceeding' has the same meaning as the *Evidence (Miscellaneous Provisions) Act 1958*, and includes any civil, criminal or mixed proceeding and any inquiry in which evidence is or may be given before any court or person acting judicially, including a Royal Commission or Board of Inquiry under the *Inquiries Act 2014*.

If the public office identifies that public records must be retained under other applicable legislation for a period that exceeds the retention period specified under the Standards, then the longer retention period must apply.

Normal Administrative Practice

The destruction of some public records is permitted without final authorisation under normal administrative practice (NAP). NAP covers the destruction of ephemeral material of a facilitative nature created, acquired or collected by public officers during the course of their duties.

The following material may be destroyed under NAP:

- working papers consisting of rough notes and calculations used solely to assist in the preparation of other records such as correspondence, reports and statistical tabulations
- drafts not intended for retention as part of the office's records, the content of which has been reproduced and incorporated in the public office's record keeping system
- extra copies of documents and published material preserved solely for reference.

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Transfer of records to Public Record Office Victoria

Contact Public Record Office Victoria for further information on procedures for transferring permanent records to archival custody.

Use of Other Authorities

In applying the disposal sentences set out in this Authority, reference should be made to other current Authorities where applicable. Where there is a conflict between two Authorities (for instance this Authority and the General Retention and Disposal Authority for Records of Common Administrative Functions), consult the Public Record Office Victoria for advice.

Explanation of Authority Headings

Class Number

The class number or entry reference number provides citation and ease of reference.

Description

The description of each record class is specified in this entry. A record class is a group of records that relate to the same activity, function or subject and require the same disposal action.

Status

This entry provides the archival status of each class - either permanent or temporary.

Custody

This entry specifies whether the records are to be retained by the public office or transferred to Public Record Office Victoria. Permanent electronic records are to be transferred in VERS Encapsulated Object (VEO) format. The storage of public records identified in this Authority must also be in accordance with the requirements of Public Record Office Standard PROS 20/02 Storage.

Disposal trigger - reference uses ceases

In the context of this RDA the records disposal trigger 'when reference use ceases' authorises the Chief Parliamentary Counsel to dispose of the specified records once they have determined that the records concerned are designated as of short term value or low risk and no longer required for the purpose of drafting bills and/or regulations. The Chief Parliamentary Counsel must consider the subject matter of the draft bill/legislation and the likelihood that the specified records will be of use for future drafting before disposing of them.

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Establishment of Standard

Pursuant to Section 12 of the *Public Records Act 1973*, I hereby establish these provisions as a Standard (also known as a Retention and Disposal Authority) applying to the Office of the Chief Parliamentary Counsel. This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked.

[Approved]

Justine Heazlewood, Keeper of Public Records

Date of Issue: 11/01/22

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Authority number: PROS 22/02

No	Function/Description	Status	Disposal Action
1.0	<p>Legislative drafting</p> <p>The function of drafting all government (and as required, private member's) bills for introduction into Parliament and the drafting and/or settling of a wide range of subordinate legislation, including regulations, rules, proclamations and orders.</p> <p>Includes:</p> <ul style="list-style-type: none"> • the drafting of all government bills for the Victorian Parliament, including proposed amendments made during the bill's passage through the houses of Parliament • providing legislative services to non-government members on a confidential as required basis, including drafting private member's bills and opposition and independent's house amendments • the drafting and/or settling of statutory rules and regulations for various bodies to be made by the Governor in Council (Executive Council) under the <i>Subordinate Legislation Act 1994</i> – such as by the Supreme, County, and Magistrates' Courts (settling confirms that they are legally within the power of the Act and in the format required) • providing advice and assistance to agencies relating to legislation and legislative proposals and procedures (including the making of regulations and proclamations) • setting guidelines and providing advice to agencies to assist with the legislative process. <p>Also includes providing a publishing of bills service to parliament, including the preparation and coordination of printing of bills for passage through parliament, and for presentation to the Governor.</p> <p>Activities include:</p> <ul style="list-style-type: none"> • receiving instructions from agencies to draft legislation • clarifying policy issues with instructing agencies • drafting legislation and sending draft legislation to instructing agencies and other interested agencies for comment • receiving further instructions from instructing agencies and revising drafts according to those instructions • ensuring that legislation is within policy authority • providing advice and liaising with agencies to 		

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No	Function/Description	Status	Disposal Action
<i>Legislative drafting</i>			
	<p>resolve legal issues that may arise.</p> <p>See <i>RDA for Records of Common Administrative Functions</i> COMMITTEES for records of committees including the Parliamentary Counsel Committee (PCC).</p> <p>See <i>RDA for Records of the Non-Accredited Training Function</i> for records of training provided to agencies to assist with the legislative process.</p>		
1.1	<p>Records of continuing value, including:</p> <ul style="list-style-type: none"> • records of the drafting of bills which are subsequently passed by parliament and become Acts • signed copies of regulations made by the Executive Council • signed copies of statutory rules made by various bodies under the <i>Subordinate Legislation Act 1994</i>. <p>Records relating to the drafting of bills which are subsequently passed by parliament and become Acts can include:</p> <ul style="list-style-type: none"> • legislative proposals including cabinet submissions and approvals • briefing notes and drafting instructions received from an instructing agency • legal advice and opinions received by an instructing agency • research material • correspondence between drafters and an instructing agency • records of meetings between drafters and an instructing agency • drafts of legislation • parliamentary passage prints of bills • house amendments if required (including opposition and independent amendments) • royal assent prints (if a bill is passed by parliament) • proclamation advice (where applicable) provided to agencies. <p>Includes assisting members of parliament to draft private member's bills for parliament. Private member's bill records comprise instructions from the member,</p>	Permanent	Retain as State Archives, Transfer to PROV

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Legislative drafting

	<p>advice and drafts from the drafters and parliamentary passage prints of bills. (Note: it is extremely rare, if at all, that private member's bills become Acts.)</p> <p>Also includes records of:</p> <ul style="list-style-type: none"> • providing advice on legislative matters including proclamations, administrative orders and parliamentary procedures regarding the passage of legislation through Parliament • setting guidelines and providing advice to agencies to assist with the legislative process. 		
1.2	<p>Records documenting:</p> <ul style="list-style-type: none"> • bills (both government and private member's) that do not proceed to become an Act. A bill may be discontinued during drafting due to a change in policy or changed priorities. A bill may also be introduced to parliament but be subsequently withdrawn, defeated or lapse upon a change of government • drafts, instructions and settling information relating to regulations • drafts, instructions and settling information relating to statutory rules. Statutory rules have a limited duration of 10 years (which may be extended by another year) before having to be remade. <p>Also includes records of:</p> <ul style="list-style-type: none"> • statutory rules that do not proceed • rules made by various bodies that do not proceed. 	Temporary	Destroy after reference use ceases.

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No	Function/Description	Status	Disposal Action
<i>Legislative publication</i>			
2.0	<p>Legislative publication</p> <p>The publication of legislation and the management of legislative information, ensuring access to the law. Includes:</p> <ul style="list-style-type: none"> • developing, compiling and maintaining an authoritative record of legislative information • publishing authorised legislation • publishing information publications relating to legislation • publishing the Victoria Government Gazette. 		
2.1	<p>Records of continuing value, including:</p> <ul style="list-style-type: none"> • legislative information. A database of legislative information which provides a complete history of the life cycle of all legislation from passage through parliament, enactment, commencement, amendments and repeal. The authoritative record on the status of legislation, it is the source used to produce a range of legislative publications • published authorised legislation. The publication of authorised Acts and statutory rules, including point in time consolidations of principal Acts and statutory rules • the Victoria Government Gazette. The Victoria Government Gazette provides official notification of decisions or actions taken by, or information from the Governor of Victoria, government departments, authorities and agencies, local councils, companies and individuals. The publication of information is usually mandated under relevant legislation and failure to publish the information may rule decisions invalid or inoperative. The Victoria Government Gazette archive comprises a record of every gazette published since 1851. 	Permanent	Retain as State Archives, Transfer to PROV
2.2	<p>Records documenting:</p> <ul style="list-style-type: none"> • legislative publications compiled from the legislative information database. These publications are published online periodically (or available for purchase) to reflect changes to the law • proofs and correspondence relating to the publishing of Government Gazette notices. 	Temporary	Destroy after reference use ceases.