

## BUSINESS

AS AT MAY 2006

### RECORD RETENTION REQUIREMENTS

Documents	Section	Minimum Time	Form of Retention	Section
<b>1. (A) Corporations Act</b>				
Financial Records (invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry; and such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up) that correctly record and explain the transactions and (including any transactions as trustee) and would enable true and fair financial statements to be prepared.	s 9 and s 286	7 years after the completion of the transactions to which they relate	The financial records may be kept in any language. An English translation must be made available to a person who is entitled to inspect the records and asks for a translation.	s 287
			If financial records are kept in electronic form, they must be convertible into hard copy. Hard copy must be available within a reasonable time.	s 288
			A company, registered scheme or disclosing entity can decide where to keep their records. If it is outside Australia, sufficient written information (or <i>readily accessible</i> electronic information –see Note A, page 24) must be	s289

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			kept in Australia to allow true and fair financial statements to be prepared	
A register of members (giving details of their names and addresses, shares/stocks, the date at which each person was entered into the register, the date of which any person who ceased to be a member during the previous seven years so cease to be a member)	s 169 and s 1270	5 years after the last entry in the register.	At the registered office or principal place of business and open for inspection. (Note there are some exceptions).	s 172 and 1302
An index of the members enabling the account of each member to be found readily.	s 169(2) and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 172 and 1302
A register of options granted to persons to take up unissued shares (giving details of the name and address of the holder of the option, the date on which the option was granted, the number and description of the shares in respect of which the option was granted, the period during which the option may be exercised, the consideration for the grant of the	s 170 and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 172 and 1302

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option, the consideration for the exercise of the option or the manner for which the consideration is to be ascertained or determined, and such other particulars as are prescribed).				
A copy of every instrument by which an option to take up unissued shares is granted.	s 170 and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 172 and s 1302
A director of a listed public company must notify the relevant securities exchange of the following interests of the director: interests in securities of the company or a related body corporate, contracts to which the director is a party or under which the director is entitled to a benefit; and that confer a right to call for or deliver shares in, debentures of, or interests in a collective investment scheme made available by, the company or a related body corporate.	s 205G and s 1469 item 12	within 14 days after each of the following occasions: (a) appointment as a director of the company (b) the listing of the company		

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
A company must lodge with ASIC a notice of the personal details of a director or secretary	s 205B-D	within 14 days after they are appointed		
A copy of every document relating to a charge on the property of the society.	s271 and 1270	7 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 242 and s 1302
A register of charges (giving details of the date of creation or date when the charge property was acquired, a short description of the liabilities secured by the charge, a short description of the property charged, the name of the trustee for debenture holders, the name of the chargee if there is no trustee, and the name of the person whom the company believes to be the holder of the charge).	s 271 and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 271 and s 1302
A register of members or substantial shareholders (giving details of name and address, particulars of the voting shares, prescribed particulars of each such interest, prescribed	s168 and s169 and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 1302

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
particulars of any agreement, and other such particulars as are prescribed).				
ASIC, a listed company or the responsible entity for a listed managed investment scheme, may direct a member of the company or scheme; or a person having a relevant interest in, or having given instructions about, voting shares in the company or interests in the scheme to make disclosure of interests and instructions.	s 672A-F			
A register of holders of debentures (giving details of names and addresses of the holders and the respective amounts of the debentures held by them).	s 168, 171 and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 172 and s 1302
Books containing the minutes or proceedings of any general meeting, or of a meeting of the directors.	s 251A and s 1270	5 years after the last entry in the register.	At the registered office principal place of business and open for inspection.	s 251A(5)

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
Buy Back procedure - the company must send out notices of meeting and lodge with ASIC the notice of meeting and any document relating to the buy-back that will accompany the notice sent to shareholders.	s 257C-257F			
<b>1. (B) Corporations Act - Financial Services Reform Act 2001</b>				
A person who is required by a provision of this Chapter to keep a register in relation to a business carried on by the person must preserve it.	s1101C(1)	5 years after the last entry in the register.	At the registered office or principal place of business and open for inspection. (Note there are some exceptions).	s1302
			Failure to comply with this subsection is an offence	s1311(1)
A person who is required by a provision of this Chapter to keep any financial record in relation to a business carried on must preserve it.	s1101C(2)	7 years after the completion of the transactions to which they relate	A financial services licensee must (a) keep financial records that correctly record and explain the transactions and financial position of the financial services business carried on by the licensee; and  (b) keep those records in accordance with the	s988A(1)  s988B

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			requirements of this Subdivision; and	
			(c) comply with the requirements of this Subdivision in relation to conversion of records into the English Language.	
			The records must be kept in a way that:	s988C(1)
			(a) enables true and fair profit and loss statements, and balance sheets, of the financial services business of the licensee to be prepared from time to time	
			(b) allows those statements and balance sheets to be conveniently and properly audited.	s988D
			The records must be kept in writing in the English language, or in a manner that enables them to be readily accessible and readily converted into writing in the English language.	
			If any of the records are kept outside this jurisdiction, the licensee must:	
			(a) cause to be sent to and kept at a place in	s988E

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			<p>this jurisdiction such particulars with respect to the business dealt with in those records as will enable true and fair profit and loss statements and balance sheets to be prepared; and</p> <p>(b) if required by ASIC to produce those records at a place in this jurisdiction, comply with the requirement not later than 28 days after the requirement is made.</p> <p>The records must be kept in sufficient detail to show particulars of certain information as listed in this section.</p> <p>Failure to comply with this subsection is an offence</p>	s1311(1)
Retention requirement for Product Disclosure Statement (PDS) that does not need to be lodged with ASIC	s1015D(3)	The responsible person for the PDS must keep a copy of the PDS for the period of 7 years after the date of the Statement.	<p>During that period the responsible person:</p> <p>(a) must make a copy of the PDS available to ASIC if asked to do so by ASIC; and</p> <p>(b) must comply with any reasonable request from any other person for a copy of the PDS.</p> <p>Failure to comply with this subsection is an offence.</p>	s1015D(4)

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
The relevant authority in relation to Part 7.5 arrangements (Compensation Regimes for Financial Markets) must , in relation to each regulated fund established in connection with the arrangements, keep written financial records that: (a) correctly record and explain the fund's transactions and financial position and performance; and (b) would enable true and fair financial statements to be prepared and audited.	s892H	7 years after the transactions covered by the records are completed.	Failure to comply with this subsection is an offence	s1311(1)
<b>2. Privacy Legislation</b> <b>a) Privacy Act 1988</b> An organisation must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under NPP 2.	NPP 4.2	No specification.		

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
If an organisation collects health information about an individual in accordance with NPP 10.3, the organisation must take reasonable steps to permanently de-identify the information before the organisation discloses it.	NPP 10.4	No specification.		
<i>Prohibited Information to be deleted</i> A credit reporting agency must delete from an individual's credit information file maintained by the credit reporting agency any personal information of a kind referred to in para 18E(1)(b) or (ba) within 1 month after the end of the maximum permissible period for the keeping of personal information of that kind.	s18F(1)			
<i>Maximum Permissible Periods for Information</i> For the purposes of ss(1), the maximum permissible periods for the keeping of personal information of the kind referred to in s18E(1)(b) are as set out opposite;	s18F(2)		in the case of information referred to in (i), (ia), (ii), (iii) or (iv) - the period of 5 years commencing on the day on which the credit report concerned was sought;  in the case of information referred to in (v) - the period of 14 days commencing on the day	s18F(2)(a)  s18F(2)(b)

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			on which the credit reporting agency is notified under s18F(5) that the credit provider concerned is no longer a current credit provider in relation to the individual concerned;	
			in the case of information referred to in (vi) - the period of 5 years commencing on the day on which the credit reporting agency was informed of the overdue payment concerned;	s18F(2)(c)
			in the case of information referred to in (vii) - the period of 5 years commencing on the day on which the second dishonouring of the cheque occurred;	s18F(2)(d)
			in the case of information referred to in (viii) - the period of 5 years commencing on the day on which the court judgment concerned was made;	s18F(2)(e)
			in the case of information referred to in (ix) - the period of 7 years commencing on the day on which the bankruptcy order concerned was made; and	s18F(2)(f)

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			in the case of information referred to in (x) - the period of 7 years commencing on the day on which the information was included in the credit information file concerned.	
<i>Maximum Permissible Period</i> For the purposes of ss(1), the maximum permissible period for the keeping of personal information of the kind referred to in s18E(1)(ba) is the period of 5 years beginning on the day when the credit reporting agency is informed of the overdue payment concerned.	S18F(2A)			
<b>3. Taxation Laws</b> <b>a) Income Tax Assessment Act 1936</b>				
Documents relevant to income and expenditure, and documents containing particulars of any election, estimate, determination or calculation (and the basis on which they were made) made under the Act.	s 262A	5 years, or the end of the assessment period if so extended by the Commissioner, whichever is the later.	In the English language or, if not in written form (eg. in an electronic medium such as magnetic tape or computer disk), in a form which is readily accessible* and convertible into writing in English.  To retain CD, microfilm or microfiche records, application must be made to the Taxation	s 262A TR 97/21  TR96/7

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
			Department. If retained, they must describe in detail, and provide an audit trail of, all individual transactions; be clear; be suitably indexed; be available for inspection.	
			Original records from which microfiches are produced by photographic process will be retained to the extent required by the Taxation Office. Legal documents cannot be in microfiche.	TR96/7
			The ATO must be given the encryption key for encrypted documents.	TD 2001/D4
<b>b) Capital Gains Tax Requirements</b>				
All documents relevant to an asset.	s 160ZZU	5 years after the completion of the transactions to which they relate.	Commissioner to have full and free access and may take extracts or make copies.	s 263,264
<b>c) GST Requirements</b>				
The Taxation Administration Act requires an entity which enables a taxable supply or creditable acquisition to keep records that	s 70	At least 5 years after the completion of the transactions to which the records relate	In English or in a form readily accessible* and readily convertible into English (eg a computer disk)and in a form that enables the entity's GST liability to be readily ascertained.	

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
identify and explain all transactions relevant to that supply.				
<b>d) Queensland Revenue Taxes (including duty payable under the Duties Act 2001)</b>				
Where a person is required to keep a record under a state tax law, then it must be kept in the form specified by the Taxation Administration Act 2001.	S118(a)	The later of: <ul style="list-style-type: none"> <li>5 years from the date on which record was made or obtained</li> </ul>	Must keep the record in the form of a document written in English with information about amounts expressed in Australian dollars, or in a form that can be readily converted or translated into such.	s 115 and s 117
	s118(b)	<ul style="list-style-type: none"> <li>5 years after the completion of the transaction to which the record relates</li> </ul>		
	s118(c)	<ul style="list-style-type: none"> <li>if the person's liability under a revenue law depends on the continued satisfaction of conditions for a period after an assessment to which the record relates, then 2 years after this period ends.</li> </ul>		

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<b>4. Workplace Relations Act 1996 (Cth)(as amended 2006)</b>				
Records relating to employees and pay slips including name, date of birth, classification, full-time or part-time, permanent, temporary or casual, date employment began, records of start and finishing times and total hours worked (if salary is less than \$55,000), pay details, leave details, superannuation contributions.	Part 19 Regs	7 years after employment is terminated	In a legible form in the English language and readily accessible to a workplace inspector	
<b>5. Motor Dealers (Property Agents and Motor Dealers Act 2000)(Q)</b>				
Every motor dealer shall keep a register at the premises of the licensed motor dealership and record it in particulars of every transaction entered into in the course of dealing there.	s 330	Regulations will specify this	At the licensed motor dealer's premises and open for inspection to the Registrar, Deputy Registrar, Assistant Registrar, or police officer. The register can be kept in electronic form, as long as the information can be accessed both electronically and as hard copy.	s 330
Except in a transaction between a motor dealer and a financier of the business of the motor dealer or	s 331	Keep indefinitely	At the licensed motor dealer's premises.	s 331

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
another motor dealer, the motor dealer when buying or accepting the consignment of a motor vehicle, must keep a copy of the statement from the vendor setting out information as may be prescribed.				
A motor dealer who sells a motor vehicle, either personally or on consignment must retain a copy of the statement given to the buyer describing prescribed particulars about the owner of the vehicle and the vehicle itself.	s 332	Keep indefinitely	At the licensed motor dealer's premises.	s 332
Motor dealer's licence and certificate of registration.	s 337	Keep indefinitely	At the licensed motor dealer's premises and open for inspection to the Registrar, Deputy Registrar, Assistant Registrar, police officer or party related to the dealing.	s 337
<b>6. Workcover Queensland Act 1996 (Qld)</b>				
Employers to keep an accurate record of the name of employed and	s 469 Regulation	At least three years after the last entry made in it.	Available for inspection by an authorised person.	s469

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
amounts paid and a record of all contracts let requiring performance of work.	15			

## **7. Financial Transaction Reports Act 1988 (Cwth) (formerly Cash Transaction Reports Act (1988))**

***NOTE: Anti-money laundering reform package will affect this***

Any record made or obtained of any information by a financial institution in the course of obtaining account information or signatory information.	s 23(1)	7 years after the day on which the relevant account is closed.	Keep the record or a copy of it in a way that makes retrieval of it reasonably practical (this includes reasonably accessible* electronic form).	s 23(5)
Where a document is required to be released by law, a complete copy of it must be kept.	s 23(7)	Keep until the 7 year period has ended or the document is returned, whichever occurs first.	Retain and store in a way that makes retrieval of the document reasonably practical (this includes reasonably accessible* electronic form).	s 23(5)
A register of documents released.	s 23(8)	Keep indefinitely	Keep in a way that makes retrieval reasonably practical (this includes reasonably accessible* electronic form).	s 23(5)
Any account or signatory information obtained in relation to each account since 1992.	s 20(1)	7 years after the day on which the relevant account is closed	In a way that can be audited (this includes reasonably accessible* electronic form).	s 20(1)
A register for entering transactions	s 12	Keep indefinitely	In a manner and form approved by the	s 13

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
<p>and classes of transactions which are exempt significant cash transactions (see sections 9, 10, 11).</p> <p>The register is to include prescribed details which are:-</p> <ol style="list-style-type: none"> <li>1. For each person conducting the transaction with the financial institution <ol style="list-style-type: none"> <li>(a) the name of the person; and</li> <li>(b) the business or residential address of the person; and</li> <li>(c) the occupation, business or principal activity of the person.</li> </ol> </li> <li>2. A statement whether the exemption covers deposits, withdrawals or both.</li> <li>3. The total amount of currently involved in the transaction or the range of amounts of currency involved in the class of transactions.</li> <li>3A. The total monetary amount of</li> </ol>			<p>Director so that an authorised officer may inspect the register and make a copy of, or take extracts from the register, together with any other information relating to the register.</p> <p>The Director must give notice in order to do this.</p>	

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
the transaction or the range of monetary amounts of the class of transactions.				
3B. The amounts and types of any foreign currency involved in a transaction.				
4. The date of the transaction or the period during which the class of transactions is to be exempt.				
5. The name of, and the office held by, the person making the decision to grant or amend the exemption.				
<b>8. Proceeds of Crime Act 1987 (Cwth)</b>				
"Customer generated financial transaction document", in relation to a financial institution, means a financial transaction document of the institution:	s76		A financial institution required to retain documents under these provisions shall retain and store them in a way that makes retrieval of the documents reasonably practicable.	s77(5)

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
(a) that relates to:				
(i) the opening or closing by a person of an account with the institution;		7 years after the day on which the account is closed		
(ii) the operation by a person of an account with the institution;		7 years after the day on which the deposit box ceases to be used by the person		
(iii) the opening or use by a person of a deposit box held by the institution;		7 years after the day on which the transaction takes place		
(iv) the telegraphic or electronic transfer of funds by the institution on behalf of a person to another person;				
(v) the transmission of funds between Australia and a foreign country or between foreign countries on behalf of a person; or				
(vi) an application by a person for				

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
<p>a loan from the institution (where a loan is made to the person pursuant to the application); and</p> <p>(b) that is given to the institution by or on behalf of the person (whether or not the document is signed by or on behalf of the person);</p> <p>"Essential customer-generated financial transaction document", in relation to a financial institution, means a customer generated financial transaction document other than a document that relates to the operation of an account held with the institution;</p> <p>"Financial transaction document" in relation to a financial institution, means any document that relates to a financial transaction carried out by the institution in its capacity as a financial institution and, without limiting the generality of this, includes a document relating to:</p>				

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
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(a) the opening, operating or closing of an account held with the institution; and

(b) the opening or use of a deposit box held by the institution but does not include a cheque or payment order.

**9. Consumer Credit Code**

Credit Providers are obliged to provide copies of loan contracts, guarantees, mortgages, insurance contracts and notices during the life of the contract and for two years after it is ended.

s 163 (1)

A copy may be provided in the form of a computer generated facsimile

s 163(3)

**10. Codes of Practice**

Financial Institutions should keep records of all disputes and decisions.

Voluntary

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
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They must report annually to ASIC on the number of disputes for each year, the categories into which disputes fell and how they were dealt with.

**Electronic Funds Transfer (EFT) Code of Conduct**

A financial institution must ensure where possible that a receipt is issued for every electronic transaction whether made over the internet or using EFTPOS facilities.

The receipt must indicate the amount, exact time, place, type of transaction, an identifier of some sort distinguishing the particular customer and where security and privacy permits, the remaining or accumulated balance in the customer's account.

Financial institutions must also provide periodic statements to their customers.

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
Further, financial institutions are required to keep sufficient records for transactions to be traced, checked, identified and corrected if need be.				
<b>11. Land Title Act 1994 (Queensland)</b>	11A(2)	11A(4) The original mortgagee must, for 7 years after the instrument of mortgage is registered, and whether or not there is registered a transfer of the interest constituted by the mortgage— (a) keep, in the approved form, a written record of the steps taken under subsection (2); or (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the original mortgagee in	Originals or copies of the documents	11A (4)
11A(2) Before the instrument of mortgage is lodged for registration, the mortgagee under the instrument (the original mortgagee) must take reasonable steps to ensure the person who executed the instrument as mortgagor is identical with the person who is, or who is about to become, the registered proprietor of the lot or the interest in a lot.				

<b>Documents</b>	<b>Section</b>	<b>Minimum Time</b>	<b>Form of Retention</b>	<b>Section</b>
		complying with subsection (2).		
11B(2) Before the instrument of transfer is lodged for registration, the transferee under the instrument of transfer (the mortgage transferee) must take reasonable steps to ensure the person who executed the instrument of mortgage as mortgagor was identical with the person who, when the instrument of mortgage was executed, was, or was about to become, the registered proprietor of the lot, or the interest in a lot.	11B(2)	11B(4) The mortgagee transferee must, for 7 years after the instrument of transfer of the mortgage is registered, and whether or not there is registered a further transfer of the interest constituted by the mortgage— (a) keep, in the approved form, a written record of the steps taken under subsection (2); or (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the mortgage transferee in complying with subsection (2).		

**Notes: A.** For any information kept in electronic form, the method of generating the information must provide a reliable way of maintaining the *integrity* of the information, unless a specific storage device is provided for by the relevant legislation.

“*Readily accessible*” means that it is reasonable to expect that:

1. The information stored in electronic form is readable and capable of being interpreted for subsequent use
2. Any software necessary to allow the information to be read has been retained

See the Commonwealth and State *Electronic Transactions Acts* for the legal requirements for electronic transactions. Archiving procedures for electronic records must allow for changes in technology eg data recorded on a 5 ¼ inch disk cannot be retrieved if you do not have the appropriate size disk drive.

**B.** See AS 4390 Australian Standards for Records Management

**C.** The admissibility of documents (whether paper or electronic) as evidence in a court is subject to the provisions of the Commonwealth and State Evidence Acts.

**D.** Statutory limitation periods limit the time in which an action may be brought against a person or entity. A statutory limitation period is typically six years from the cause of action arising (eg breach of contract) but this may vary in certain cases. In most cases, a corporation should keep records for at least six years to defend or bring legal action.

**E.** This table does not address the following issues:  
Any records retention requirement that results from document discovery requests, subpoenas, or court orders in any specific litigation or that would relate to any pending or anticipated claim

**F.** In Victoria, note *The Crimes (Document Destruction) Act 2006* which commences on 1 September 2006. The Act creates an offence of destruction of evidence which is, or is likely to be, required in legal proceedings that are in progress or are to be, or may be, commenced in the future.

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