

# APPRAISAL MEMORANDUM: AMENDING AN EXISTING DISPOSAL AUTHORITY

**File:** IKM 15-01 F49

**Agency Name:**  
Ministry of Justice

**Contact Name:**  
[Name removed]

**Schedule to be changed:**  
DA 564

## **Circumstances**

While implementing schedule DA 564 several classes of records not covered by the schedule were identified. In addition, it was also found that the wording of several disposal classes of DA 564 was unclear and consequently wording changes are proposed to provide greater clarity.

## **Agency information**

The records covered by this amendment were generated by District Courts or the Tenancy Tribunal (which is administrated by District Courts).

District Court: New Zealand has had courts that deal with minor criminal offences and civil claims since the mid-1840s. These courts have been known at different times as District Local Courts and Magistrates Courts. In 1980 the Magistrates Courts were renamed District Courts and their jurisdiction increased.

There are currently 66 District Courts throughout New Zealand. Many of these have resident judges, and judges visit the remaining Courts on circuit from time to time. The District Courts Act 1947 provides for a maximum of 156 District Court judges.

The District Courts Act also sets the jurisdiction of the District Courts. In the civil jurisdiction, the District Court can determine claims involving up to \$200,000. At the lower end of the scale, disputes involving less than \$15,000 can be dealt with by the Disputes Tribunals.

In the criminal jurisdiction, the District Court hears cases involving minor offences, but can conduct trials for some serious offences, such as rape and aggravated robbery.

Tenancy Tribunal: The Tribunal was established under s67 of the Residential Tenancies Act 1986. The Act also defined the rights and obligations of landlords and tenants of residential properties.

The Tribunal hears disputes between landlords and tenants of residential properties who have been unable to reach settlement through mediation provided by the

Department of Building and Housing. The Tribunal decides disputes according to the general principles of the relevant law and the merits and justice of the case.

Hearings are heard by an independent adjudicator appointed by the Governor-General on the recommendations of the Ministers of Housing and Justice. Administrative support is provided by District Courts and staff from the Department of Building and Housing,

### **Scope of amendment**

With the exception of audio recordings, all other records covered by the proposed amendment to DA 564 are legacy paper records.

A significant number of further additional classes of records not covered by DA 564 were also identified by Archives New Zealand's Regional Archivists over recent months and following discussions with Archives New Zealand staff, it was agreed that these would be submitted as a separate schedule.

### **DISPOSAL CLASSES PROPOSED FOR CHANGE**

#### **Approved original details:**

Class title: High Court records  
Record type: Civil appeal case files  
Class number: 4.08  
Retention period: 10 years  
Disposal action: Transfer to Archives NZ

#### **Proposed change:**

Record type: Civil case files

Justification: The current wording could imply the class only covers civil appeal files whereas it is intended to cover both appeals from lower courts and civil cases within the jurisdiction of the High Court. The change broadens the wording to mean that all cases are covered by class 4.08.

#### **Approved original details:**

Class title: Legacy records from all Courts  
Record type: District Court Miscellaneous case files  
Class number: 8.20  
Disposal action: Retain permanently in the Court

#### **Proposed change:**

Record type: District Court Miscellaneous application case files

Justification: the addition of "application" into the record type was recommended by Archives NZ to reduce the risk of confusion in implementing the schedule

**Approved original details:**

Class title: Legacy records from all Courts  
Record type: Maintenance order records  
Class number: 8.42  
Retention period: 10 years  
Disposal action: Transfer to Archives NZ

**Proposed changes:**

Record type: Maintenance registers and indexes

Justification: this is to delineate between routine maintenance order payment records (class 8.41) and the summary record contained in the registers and indexes

**Approved original details:**

Class Title: Domestic Proceedings case files  
Class number: 8.23  
Retention Period: 25 years  
Disposal Action: Transfer to Archives NZ

**Proposed changes:**

Class Title: Domestic Proceedings and Miscellaneous Domestic Proceedings case files

Justification: the addition of Miscellaneous Domestic Proceeding (MDP) case files in the class title is to avoid confusion as to whether MDP case files are covered under this class. MDP files typically contain applications for taking of evidence especially concerning matrimonial property issues.

There is little difference in information content between DP and MDP files in many courts and the prefixes DP and MDP often appear interchangeable. Consequently the rationale for retention for DP files in DA 564 also applies for MDF files.

**PROPOSED NEW DISPOSAL CLASSES:**

The disposal criteria below are the relevant criteria extracted from the Courts schedule (DA 564):

A8	Records provide evidence of the legal status and fundamental rights and entitlements of individuals and groups
A9	Records provide information about the State’s direct intervention in the lives of individuals and the Family Court’s and its procedural role in determining the extent or duration of that intervention

A10	Records provide information that is of research value to: <ul style="list-style-type: none"> <li>• family history research</li> <li>• New Zealand economic and commercial history</li> <li>• the history of the administration of government and the development of administrative case law</li> <li>• the development of the New Zealand legal system</li> <li>• social history research</li> </ul>
A15	Records provide summary information about occupational or activity licensing or approval applications
A16	Records are legacy records determined in previous appraisals to have archival value, and complete series of records already held by Archives New Zealand

#### Destruction criteria

D4	Records are of a quantity and format that preclude a selection process and contain such quantities of low-level information that their retention as archives as a complete set is not warranted
D6	Records are routine operational administration

#### New Record Classes and recommendations

Record type	Description	Disposal action	Disposal criteria
Audio recordings of Court hearings prior to the introduction of For The Record (FTR)	Recordings of District Court proceedings. Core information is transcribed and included in the relevant case file. The disposal recommendations are consist with Court Operational Circular GEN 01/05 "Storage of the Record of Proceedings"	Destroy 5 years from date of judgment/decision	<b>D6</b>
Family Proceeding (FP) registers, indexes and case files	Document proceedings relating to such matters as custody, guardianship, matrimonial property, taking of evidence, examinations as to means or objections, application for place of safety warrants, and other orders and applications relating to family or domestic proceedings	Transfer to Archives NZ 25 years after closure	<b>A8 A9, A10, A16</b>

	cases. This is the successor series to Domestic Proceedings case files already identified for transfer to Archives New Zealand under DA 564 (class 8.23)		
Miscellaneous Domestic Proceedings (MDP) and Domestic Proceedings (DP) registers and indexes	Control records for Miscellaneous Domestic Proceedings (MDP) and Domestic Proceeding (DP) case files. Registers are printed with headed columns. Information given for each entry includes: Miscellaneous family proceeding number, date, applicant, respondent, nature of application and act, date of hearing, decision, magistrate or registrar	Transfer to Archives NZ 25 years after closure	<b>A8, A9 A16</b>
Tenancy Tribunal and Tenancy Sales Act registers and indexes	The Tenancy Tribunal was a special court for deciding disputes between landlords and tenants. Parties normally represented themselves, and could call witnesses if required. Cases were heard before a tenancy adjudicator, who made decisions according to the Residential Tenancies Act. The decision made by the adjudicator was presented as a Court Order.  The registers record hearings and decisions before the Tenancy Tribunal. Information includes: names of parties subject of dispute date of hearing order made.	Transfer to Archives NZ 25 years after date of last entry	<b>A15 A16</b>
Tenancy Tribunal case files	These consist of individual case files which typically consist of administrative type information, correspondence, submissions	Destroy 10 years after closure	<b>D4</b>

	and decision documentation		
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**Records quantities:**

Providing accurate estimates of records quantities is especially challenging given that the records are held in courts located around the country. Information from the national survey of court records completed last year indicates:

Total records for transfer: c.50 lm in total (including c. 50 registers)

Total records for destruction: c.500 lm in total and c. 1,500 audio recordings

Annual accretion rate for Tenancy Tribunal case files c.100 lm

**Consultation**

Given the similarity of a number of the classes covered by DA 564, external consultation was initiated with those stakeholders who provided substantial responses to DA 564. These were:

- Ministry of Social Development
- Archives and Records Association of New Zealand (ARANZ)
- Professional Historians Association of New Zealand Aotearoa (PHANZA)
- Lost Cases Project (Victoria University)

Responses were received from the Ministry of Social Development and PHANZA supporting the disposal recommendations made and consequently no changes to the draft schedule amendment was proposed.