



KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA

RECORDS RETENTION POLICY

Version	1
Applicability	All departmental employees
Approval history	New
Last date of approval	New
Period of review	As and when required

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1. Introduction

A retention policy documents the length of time records should be retained to comply with legal and regulatory requirements balanced with the operational requirements of the Kwa-Zulu Natal Department of Human Settlements in its day-to-day business operations. The retention policy was developed following consultation with representatives of the relevant business units and obtaining legal advice on the latest applicable laws in relation to legislative and regulatory requirements for retention under the laws of the Republic of South Africa.

The retention policy is an important element in the department and assists in the process of determining the most efficient and appropriate methods of creating, storing, and disseminating records within the business.

Documents must be maintained as per the policy and applicable laws documented in Section 10 of this retention policy. Where it appears as if the retention periods are in conflict, documents must be retained for the longest period as applicable. Where legislation refers to different records (e.g., employment records versus accounting records), each requirement is specific to that legislation and should be applied accordingly to the specific records. Where legislation is silent about the format as to how and the location where the documents must be kept, section of the relative legislation will be used and if it is silent too, management should use their discretion in terms of what format to be kept.

2. Purpose

The purpose of this retention policy is to prescribe the retention periods for old, current, and newly created records whether electronically stored, in hard copy, in bound books or any other manner of recording. This document sets out legislative requirements that shall be complied with relating to the format, location, and retention period in which certain documents or records shall be kept. This policy is based on prevailing legislation applicable to the department, however, does not represent an exhaustive list. Document and information owners should ensure that all legislative retention requirements are complied with, and any Act omitted from this retention policy should be communicated to the Deputy Information Officers.

3. Scope

This records retention policy applies to records kept within the Department and is prepared in line with guidance from various South African legislative requirements.

4. Laws and Regulations

All the Department's employees and management shall comply with applicable legislation, codes and regulations.

5. Disposal Rules

- 5.1. The Deputy Information Officers will implement a systematic disposal programme to decide which records to keep and what to destroy eventually.
- 5.2. Authority for disposal shall be given by the Deputy Information Officers after deliberation with each Business Unit by reason of an appraisal report.
- 5.3. Prior to disposal of records, all records and information management regulations, policies and procedures must be followed pertaining to the Disposal of Records. The same will be applicable to records in electronic format.
- 5.4. No records may be destroyed other than by the completion and signing-off of a Destruction Certificate with the prior approval of the Deputy Information Officer in charge of records per Business Unit and being listed in a destruction register.
- 5.5. No record may be destroyed if any litigation, claim, negotiation, audit, open records request, administrative review or other action involving the document/record is initiated before the expiration of the retention period for the records as set in the Records Retention Policy, until the completion of the action and the resolution of all issues that arise from it, or until the expiration of the retention period, whichever is later. These records are deemed to be in a hold state.
- 5.6. The Deputy Information Officers will be authorised to destroy archived records that, according to the Department's Record Retention Policy, should not be preserved permanently. These are all relevant records stored at the service provider. This will be accounted for in the destruction register and the signing-off of a Destruction Certificate by the service provider.

6. Control and Safeguarding

All records are the property of the Department, and the Deputy Information Officers shall:

- 6.1. Prevent any unauthorised access to records.
- 6.2. Prevent the removal, destruction or damage of any records without the necessary authorisation.
- 6.3. Make arrangements for appropriate fire prevention in the Business Unit's Records Store.
- 6.4. For the records stored at the service provider, ensure that:
 - 6.4.1. Records may be requested from the service provider as and when required by the Department. The making of photocopies is permitted.
 - 6.4.2. Only the Business Unit concerned can withdraw its own records temporarily for reference purposes. Only the Deputy Information Officer concerned can, at his/her discretion, and subject to any conditions imposed by him/her, allow any person to get insight into his/her Business Unit's records.

7. Off-Site Storage (The Service Provider)

The following will be applicable to the records stored at the service provider's storage facility:

- 7.1. The Deputy Information Officers are the first point of contact with the service provider for all requests.

7.2. All requests for records and/or returns from and to the service provider must be facilitated by the Deputy Information Officers.

8. Responsibility for Implementation

The Heads of Directorate are responsible for the implementation of this records retention policy. The Deputy Information Officers will review this retention policy as and when the need arises dependent on legislative changes.

9. Contravention

Failure and or refusal to abide by the rules detailed in this policy shall be deemed as misconduct and the Department may initiate the appropriate investigation and disciplinary action against employees, which may lead to dismissal and or civil action. Any third party found to have violated this policy may be subject to contract termination and/or civil legal action.

10. Retention Requirements

10.1 Basic Condition of Employment Act No. 75 of 1997

Ref	Record/Document	Minimum Period	Retention
s.29	<p>An employer must supply an employee, when the employee commences employment, with the following particulars in writing:</p> <ul style="list-style-type: none"> a) the full name and address of the employer; b) the name and occupation of the employee, or a brief description of the work for which the employee is employed; c) the place of work, and, where the employee is required or permitted to work at various places, an indication of this; d) the date on which the employment began and ended; e) the employee's ordinary hours of work and days of work; f) the employee's wage or the rate and method of calculating wages; g) the rate of pay for overtime work; h) any other cash payments that the employee is entitled to; i) any payment in kind that the employee is entitled to and the value of the payment in kind; j) how frequently remuneration will be paid; k) any deductions to be made from the employee's remuneration; l) the leave to which the employee is entitled; m) the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate; n) a description of any council or sectorial determination which covers the employer's business; o) any period of employment with a previous employer that counts towards the employee's period of employment; and p) a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained 	3 years after termination of employment	
s.31	<p>Every employer must keep a record containing at least the following information:</p> <ul style="list-style-type: none"> a) The employee's name and occupation; b) the time worked by each employee; c) the remuneration paid to each employee; d) the date of birth of any employee under 18 years of age; and e) any other prescribed information. 	3 years from the date of the last entry in the record.	

10.2 Compensation for Occupational Injuries and Diseases Act No.130 of 1993

Ref	Record/Document	Minimum Retention Period
s.81	<p><i>Employer to keep record</i></p> <ol style="list-style-type: none"> An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorised person referred to in section 7 for inspection. An employer shall retain the register, record, or reproduction referred to in subsection (1) for a period of at least four years after the date of the last entry in that register or record. A health and safety representative elected in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and a trade union representative elected in terms of section 14 of the Labour Relations Act, 1995 (Act No. 66 of 1995, shall have the right to inspect, and where appropriate bring to the attention of the commissioner, any register, record or document which the employer must maintain, keep or complete in terms of this Act. 	4 years after the date of the last entry of the specific employee

10.3 Electronic Communication and Transaction Act No. 25 of 2005

Ref	Record/Document	Minimum Retention Period
s.51(8)	All personal data which has become obsolete	Destroy
s.51(3)	The data controller must disclose in writing to the data subject the specific purpose for which any personal information is being requested, collected, collated, processed, or stored.	For as long as personal information is used and for 1 year thereafter
s.51(4)	The data controller may not use the personal information for any other purpose than the disclosed purpose without the express written permission of the data subject unless he or she is permitted or required to do so by law.	For as long as personal information is used and for 1 year thereafter
s.51(5)	The data controller must, for as long as the personal information is used and for a period of at least one year thereafter, keep a record of the personal information and the specific purpose for which the personal information was collected.	For as long as personal information is used and for 1 year thereafter
s.51(7)	The data controller must, for as long as the personal information is used and for a period of at least one year thereafter, keep a record of any third party to whom the personal information was disclosed and of the date on which and the purpose for which it was disclosed.	For as long as personal information is used and for 1 year thereafter
s.51(9)	A party controlling personal information may use that personal information to compile profiles for statistical purposes and may freely trade with such profiles and statistical data, as long as the profiles or statistical data cannot be linked to any specific data subject by a third party.	For as long as personal information is used and for 1 year thereafter

10.4 Employment Equity Act No. 55 of 1998

Ref	Record/Document	Minimum Period	Retention
s.26	An employer must establish and, for the prescribed period, maintain records in respect of its workforce, its employment equity plan and any other records relevant to its compliance with this Act.	Undefined	

10.5 Tax Administration act 28 of 2011 (TAA)

Ref	Record/Document	Minimum Period	Retention
s.29 (1) – (3)	(1)(a) Documents to observe requirements of a tax act; (1)(b) Documents specifically required under a tax act; And (1)(c) Documents to enable SARS that the Person has observed these requirements	5 Years from the date of submission of return ((2)(a))	
	(2)(a) Submitted Tax Return (2)(b) Tax return _ For a person required to submit but has not yet submitted (2)(c) Tax Return_ For a person not required to submit, but, has received income, has capital gains or losses, or engaged in any activity that would be subject to tax if it were not for a threshold or exemption	5 Years from the end of the relevant tax period ((2)(C))	

10.6 Labour Relations Act No. 66 of 1995

Ref	Record/Document	Minimum Period	Retention
s.54 & s.53(4)	s.53(4) Books of Account, Supporting Vouchers, Income and Expenditure Statements, Balance Sheets, Auditors' Reports and Minutes of Meetings, all in original or reproduced form	3 Years from the end of the Financial Year to which they relate	

10.7 Occupational Health and Safety Act No. 85 of 1993

Ref	Record/Document (did not include plant & machinery and hazardous employment conditions)	Minimum Period	Retention
s. 20(2) & s. 20(1)	Health and Safety Recommendations to employers and/or to inspectors (s.20(1)(a)) Incident Reports to Inspectors	undefined	

10.8 Protection of Personal Information Act No. 4 of 2013

Ref	Record/Document	Minimum Period	Retention
s.14	<p>(1) Subject to subsections (2) and (3), records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed, unless:</p> <p>(a) retention of the record is required or authorized by law;</p> <p>(b) the responsible party reasonably requires the record for lawful purposes related to its functions or activities;</p> <p>(c) retention of the record is required by a contract between the parties thereto; or</p> <p>(d) the data subject has consented to the retention of the record.</p> <p>(2) Records of personal information may be retained for periods in excess of those contemplated in subsection (1) for historical, statistical or research purposes if the responsible party has established appropriate safeguards against the records being used for any other purposes.</p> <p>(3) A responsible party that has used a record of personal information of a data subject to make a decision about the data subject, must:</p> <p>(a) retain the record for such period as may be required or prescribed by law or a code of conduct; or</p> <p>(b) if there is no law or code of conduct prescribing a retention period, retain the record for a period which will afford the data subject a reasonable opportunity, taking all considerations relating to the use of the personal information into account, to request access to the record.</p> <p>(4) A responsible party must destroy or delete a record of personal information or de-identify it as soon as reasonably practicable after the responsible party is no longer authorized to retain the record in terms of subsection (1) or (2).</p> <p>(5) The destruction or deletion of a record of personal information in terms of subsection (4) must be done in a manner that prevents its reconstruction in an intelligible form.</p>	No longer than is necessary for achieving the purpose for which the information was collected, any period in excess, must be for historical, statistical or research purposes with appropriate safeguards in place to prevent use for any other purpose	

10.9 Regulation of Interception of Communications Act No. 70 of 2002

Ref	Record/Document	Minimum Period	Retention
s.37 & s.35(1)(f) & (g)	Documents as prescribed by the Head of the Department	For a period as prescribed by the director (s.35(1)(g))	

10.10 Unemployment Insurance Act No. 63 of 2002

Ref	Record/Document	Minimum Period	Retention
s.57	Database of contributors, beneficiaries and employers	Undefined period	

10.11 Auditing Professions Act No. 26 of 2005

Ref	Record/Document	Minimum Period	Retention
ISQC 1, para A61	Audit reports, working papers, statements, correspondence, books, or other documents in the possession or under the control of a registered auditor.	5 years after completion of the audit	

10.12 Public Finance Management Act No. 1 of 1999

Ref	Record/Document	Minimum Period	Retention
s.40	Full and Proper records of the financial affairs of the trading entity	Undefined period	

10.13 Income Tax Act No. 58 of 1962

Ref	Record/Document	Minimum Period	Retention
Fourth Schedule, Par 14(1)	-Amount of remuneration paid or due by him the employee	5 Years	from the date of submission of return evidencing payment, ie. EMP201

10.14 Value Added Tax Act No. 89 of 1991

Ref	Record/Document	Minimum Period	Retention
s.11(3)	Where Zero rating is applied _ Supporting documentary proof	5 Years	from date of submission of zero rating return
s.16(2)	For the deduction of Input VAT _ Valid Tax Invoice	5 Years	from date of submission of the return
s.55(1)(a)	All Financial records showing goods supplied by and to the vendor, and the applicable tax rate	5 Years	from date of submission of the return

11. Other Retention Periods

Some retention periods relating to other business processes of the Department are defined in the Personal Information Inventory List (Privacy Impact Assessment document).

12. Policy Revision History

Version	Date	Description
1.0	11 April 2023	Policy developed

13. Policy Recommended and Approval

HEAD OF DEPARTMENT: KZN DEPARTMENT OF HUMAN SETTLEMENTS