

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 3.12.1

[Formerly PDR 2013, para 46; Council's Practice Direction 1 of 1999]

STORAGE AND DESTRUCTION OF DOCUMENTS

This Practice Direction supersedes the Law Society's Practice Direction & Rulings 1989, para 41.

A. Return of Documents and Storage of Files

It is advisable to return to clients all documents that belong to them once the retainer is terminated, subject to such rights as may arise by reason of the legal practitioner's lien.

In addition, members may as a matter of prudence, wish to advise clients in writing immediately prior to a file being sent to storage:

- (a) of the intended storage of the files;
- (b) that clients should notify their legal practitioners concerned if they require any documents in the file, prior to despatch of the files to storage; and
- (c) that the files will in due course be destroyed.

B. Retention Period of Closed Files

The Law Society is unable to specify fixed periods of retention for individual files. However, the following are relevant considerations for determining retention periods.

(i) General considerations

- (a) As a general rule, the Law Society considers it advisable for members to retain all files for a minimum of six years from the time when the subject matter is wholly completed.
- (b) At the end of this period, members should review the files again according to the nature of the particular transactions, and the likelihood of any claims arising to decide if further retention is appropriate.
- (c) It is acceptable for members to agree a shorter storage period (followed by destruction of the files) with their clients. However members must carefully consider the implications in each case, arising from the specific considerations outlined below.

(ii) Specific considerations

- (a) In cases where a party was under a disability at the time of the action or where judgment for provisional damages has been obtained, files should be retained for a minimum period of six years from the date on which the client would have a cause of action or final judgment has been obtained.

Members should also take into account the relevant statutory provisions, some examples of which are set out below:

- (1) Section 24A of the Limitation Act (Cap 163, 1996 Rev Ed) allows actions in negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any written law or independently of any contract or any such provision) within six years from the date from when the cause of action accrued or three years from the earliest date on which the plaintiff or any person in whom the cause of action was vested before him first had both the knowledge required for bringing an action for damages in respect of the relevant damage and a right to bring such action, if that period expires later than the period mentioned in section 24A(3)(a), whichever is later, subject to an overriding time limit of 15 years under section 24B.
 - (2) Section 46 of the Goods and Services Tax Act (Cap 117A, 2005 Rev Ed) requires tax related records relating to a prescribed accounting period ending on or after 1st January 2007 to be kept for not less than five years from the end of the prescribed accounting period, subject to the Comptroller agreeing to a shorter period.
 - (3) Section 67 of the Income Tax Act (Cap 134, 2014 Rev Ed) requires records and receipts to which income relates to be kept for five years from the relevant year of assessment.
 - (4) Section 199 of the Companies Act (Cap 50, 2006 Rev Ed) requires accounting and other records that explain the transactions and financial position of the company to be retained by the company for five years from the end of the financial year in which the transactions or operations to which those records relate are completed.
- (b) Members should retain conveyancing files for six years from completion of the relevant transaction.

C. Destruction of Documents

Documents, in particular, original documents, such as agreements, deeds, guarantees and certificates, *etc*, should not be destroyed without the prior consent of the owner of that document.

Date: 31 January 2019

THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE