

Request for Feedback

Gambling and Liquor Regulation Functions Retention and Disposal Authority

BACKGROUND

Public Record Office Victoria (PROV) is Victoria's state archival authority and is responsible for the establishment of standards for the management of public records under Section 12 of the Public Records Act 1973. This includes the issuing of retention and disposal authorities (RDAs) for authorising the disposal of public records.

The development of this RDA was undertaken by the Victorian Commission for Gambling and Liquor Regulation (VCGLR) in collaboration with PROV to develop a new RDA for the records of gambling and liquor regulation functions.

In the past, some of these functions have been covered by other authorities – including PROS 99/08 Retention and Disposal Authority for Records of the Gambling Regulation Function, PROS 04/07 Retention and Disposal Authority for Records of the Office of Gaming and Racing and PROS 11/08 Retention & Disposal Authority for Records of the Liquor Licensing Function created to 31 December 1998 (inclusive).

SCOPE

The aim of the RDA, once issued as a Standard, is to specify records of gambling and liquor regulation functions that are required as State Archives and to provide for the lawful disposal of records not required permanently after specified periods.

Functions outside the scope of this RDA include:

- Common administrative functions which are covered by PROS 07/01 General Retention and Disposal Authority for Records of Common Administrative Functions
- Training which is covered by PROS 16/01 Retention and Disposal Authorities for Records of the Accredited Training Functions and PROS 16/02 Retention and Disposal Authorities for Records of the Accredited and Non-Accredited Training Functions.

ADMINISTRATIVE AND FUNCTIONAL CONTEXT

The functions are therefore described as:

- Licensing, Permit and Approvals Management
- Compliance Management
- Regulation Management.



APPRAISAL RECOMMENDATIONS

Each function has been appraised in the light of the Appraisal Statement for Public Records required as State Archives. Compliance with statutory and regulatory requirements, risk should the information not be available when required, operational needs, and support of public interest have all been key considerations underpinning the appraisal.

Licensing, Permit and Approvals Management

The function of receiving and assessing applications for licences, permits and other approvals relating to the regulation of gambling and liquor. Includes the management of renewals and exemption approvals.

Records that have been appraised as having continuing value include the development and review of licensing, permit and approvals requirements, criteria for determining the suitability of an applicant as well as criteria for the application of conditions or limits to a licence, permit or approval. It also includes applications for licencing, permits or approvals which set precedent, led to policy change or a major review of processes as well as records regarding the issue, amendment, cancellation, suspension or surrender of major licences, which are gambling licences that are issued by or the application is granted by the Minister and/or are either a casino licence or for a single statewide gambling industry licence (such as those for public lotteries, wagering and betting, Keno etc.)

These have been appraised as having continuing value as they document a primary function and program of government in regulating liquor and gambling industries, and the role of government in providing protection to the consumer.

Records which are recommended for long term temporary retention, with a sentence of destroy 65 years after date of record creation, include the registration or summary details of all licensees, permit and/or approval holders (including for major licences), the operational records of major licences (i.e. any records that are not concerning the issue, amendment, cancellation, suspension or surrender of a major licence) and the operational records of licences, permits or approvals which have been cancelled or suspended following the conclusion of an compliance management process, including any appeals.

The retention of these records is based on the working life of a person (a person must be a minimum of 18 years old to apply for a licence or permit, so 65 years represents adult working life span) but the retention period is not expressed as a period of time from date of birth as not all applicants are individuals - organisations may apply for some categories of licences/permits/approvals. In cases where a person has had their licence/permit/approval suspended or cancelled, this time period allows the detailed history of a licence or permit holder to be available for the duration of their working life for inclusion in the licence/permit/approval application assessment process should the person apply for a licence, permit or approval in the future.

Shorter-term temporary records (7 year retention) include administrative records supporting the licensing, permit and approvals management function such as unsuccessful applications, applications which are withdrawn as well as the operational records of all licences, permits or approvals which have NOT been cancelled or suspended (excluding major licences) such as records of the applicant's qualifications and training, insurance, proof of payment and police and other background checks.

Compliance Management

The function of managing compliance, including ensuring requirements are met in relation to licences, permits and approvals. Processes include that licence or permit holders remain fit and proper persons to

be licensed/hold a permit or approval, appropriate compliance enforcement action is taken where required to reduce/remove the risk of future non-compliance and complaints received are acted on as appropriate.

Records that have been appraised as having continuing value include the development and issue of guidelines or standards; the development and review of criteria for determining when compliance enforcement action/s are to be taken such as what action to apply, and when to escalate a matter; compliance enforcement action or prosecutions that set precedent and/or change legislation, policy or otherwise change the assessment of compliance within the liquor and gambling industries and compliance processes which lead to the amendment, suspension, surrender or cancellation of a major licence.

These have been appraised as having continuing value as they document a primary function and program of government as the records document the requirements of the legislation and/or regulations for responding to complaints or breaches and managing compliance. Compliance management activities which set precedent, lead to policy change etc. provide insight to whether the criteria and processes meet expectations when tested. These cases are the 'real-life' test of whether the criteria and processes work, and the steps taken to strengthen the criteria/processes when gaps are found.

Records which are recommended for temporary retention of 65 years include records of compliance processes which find a major licence holder guilty of a breach, but which do not lead to the amendment, suspension, surrender or cancellation of the licence; compliance enforcement action which leads to a licence (excluding major licences), a permit or approval being suspended or cancelled, the exclusion of a person from holding a licence, permit or approval and/or prosecution; audits that lead to prosecution for fraudulent dealings and disciplinary registers or summary information including those made available for public access such as the Disqualified Persons or Companies register or the Disciplinary Actions register.

Again, the retention of these records is based on the working life of a person but the retention period is not expressed as a period of time from date of birth as not all applicants are individuals - organisations may be the license/permit/approval holder for some categories.

Shorter term temporary records (7 years) include records relating to proactive compliance inspections which assess whether a licence, permit or approval holder is compliant with newly introduced/changed requirements and provides recommendations or instructions for improvement; compliance enforcement action (inspections, investigations and other disciplinary action) where the result is to undertake no further action, issue a reprimand or warning, or enter into an undertaking with the licence or permit holder (including major licence holders) and the observation and monitoring of operations e.g. daily monitoring of activities at the venue of a major licence holder to ensure compliance with licence terms and conditions.

Regulation Management

The function of managing the agency's regulatory responsibilities. These range from the development and issue of directions and guidelines for industry regulations; the management of gaming machine entitlements; the collection, reconciliation and payment of gaming revenue/tax, including on behalf of other jurisdictions (outside the State of Victoria) where the agency holds a contract or agreement to provide these services; Casino reviews - as required under legislation to ensure the licence holder remains eligible (i.e. fit and proper, competent and financially viable) and its operations remain compliant as well as the approval of liquor accords submitted by industry community forums to the agency under legislation.

It also includes the approval of codes of conduct submitted by licence or permit holders as a condition of holding the licence or permit; the appointment of inspectors; the accreditation of manufacturers, suppliers and testers of gaming products and the regulation of patron behaviour.

Records that have been appraised as having continuing value include the records of the implementation of recommendations resulting from external audits (of agency processes, services and transactions), including those conducted by the Auditor-General, the directions and guidelines issued to ensure that licence, permit or approval holders can comply with all their requirements, final reports and recommendations from major licence holder review projects such as reviews of the Casino Operator and final reports from projects that pilot, implement or evaluate regulatory policy.

Regulation Management records that have been appraised as having short-term value (with a sentence of destroy 15 years after date review is complete) include the review of major licence holders, such as the Casino Operator, excluding the final report and recommendations. These reviews occur every 5 years, so a 15 year retention provides the context of the previous reviews. The final reports and recommendations are retained permanently as outlined above.

Regulation Management records that have been appraised as having short-term value (with a sentence of destroy 7 years after administrative use has concluded) include operational records relating to projects that pilot, implement and evaluate regulatory policy; the assessment and appointment of inspectors such as criminal history and credit checks; the collection, reconciliation and payment of gaming revenue/tax; the receipt and review of statements from community and charitable organisations regarding the distribution of funds back into the community and the regulation of patron behaviour including monitoring and enforcing exclusions.

A 7 year retention period has been selected to provide enough time to look back on past actions if required and in many cases – such as the projects that pilot, implement and evaluate regulatory policy, the final product (report, decision) is captured as a permanent record earlier in the RDA.

WHAT WE NEED FROM YOU

To ensure the RDA is as robust and valid as possible once issued, we would appreciate feedback on any of the following questions:

- Are the retention periods reasonable?
- Is the language used in the RDAs clear enough?
- Can you identify any gaps in the RDA coverage?

Please send your feedback to agency.queries@prov.vic.gov.au by COB Friday 1 February 2019.

