



GUIDE

ON

THE RETENTION OF RECORDS

Issued September 2009

COPYRIGHT © 2009

THE SOUTH AFRICAN INSTITUTE OF CHARTERED
ACCOUNTANTS

Copyright in all publications originated by The South African Institute of Chartered Accountants rests in the Institute. Apart from the extent reasonably necessary for the purposes of research, private study, personal or private use, criticism, review or the reporting of current events, as permitted in terms of the Copyright Act (No. 98 of 1978), no portion may be reproduced by any process without written permission.

ISBN 0-86983-383-9

THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS
P O BOX 59875, KENGRAY, 2100

RETENTION OF RECORDS

Due to various legislative requirements, documents must be retained for a certain number of years, depending on the applicable legislation.

This guide has been compiled referring to specific legislation in effect at 30 June 2009 and identifying the timeframe that certain documents must be kept.

This guide does not attempt to be inclusive of all legislation, but has only referred to general legislation impacting a wide variety of entities. Users of this guide should always refer to legislation specific to their activities that might contain further requirements relating to the retention of records.

The guide refers to the relevant act, listing the documents that should be retained as well as the period of retention.

INDEX

	Pages
1. Close Corporations	1
2. Companies	1
3. State-owned Entities	2
4. Labour Relations	3
5. Health and Safety	4
6. Credit Agreements	6
7. Auditors	7
8. Taxation	8
9. Electronic Communication	9

Every effort has been made to ensure that the advice given in this guide is correct. Nevertheless, that advice is given purely as guidance to members of SAICA to assist them with particular problems relating to the subject matter of the guide, and SAICA will have no responsibility to any person for any claim of any nature whatsoever that may arise out of or related to the contents of this guide.

1. CLOSE CORPORATIONS

The **Close Corporations Act No. 69 of 1984** has the goal of providing for the formation, registration, incorporation, management, control and liquidation of close corporations. The Administrative Regulations identify the various periods that documents relating to the Close Corporation are to be retained:

	Document	Retention period
1.1.	Accounting records, including supporting schedules to accounting records and ancillary accounting records	15 years
1.2.	Amended Founding statement (forms CK 2 and CK 2A)	Indefinite
1.3.	Annual financial statements, including annual accounts and the report of the accounting officer	15 years
1.4.	Founding statement (Form CK 1)	Indefinite
1.5.	Microfilm image of any original record reproduced directly by the camera – the “camera master”	Indefinite
1.6.	Minutes books as well as resolutions passed at meetings	Indefinite

2. COMPANIES

The **Companies Act No. 61 of 1973** * consolidates and amends the law relating to companies. The retention of documents for companies has been specified by the Regulations for the retention and preservation of Company records (GN R 2592):

	Document	Retention period
2.1.	Annual Financial Statements including: - Annual accounts - Directors’ report - Auditor’s report	15 years
2.2.	Books of account recording information required by Act	15 years
2.3.	Branch register	5 years
2.4.	Certificate of change of name (if any)	Indefinite
2.5.	Certificate of incorporation	Indefinite
2.6.	Certificate to commence business	Indefinite
2.7.	Directors’ attendance register	15 years
2.8.	Index of members	15 years
2.9.	Memorandum and articles of association	Indefinite
2.10.	Minute book, CM 25 and CM 26, as well as resolutions passed at the general / class meetings	Indefinite
2.11.	Microfilm image of any original record reproduced directly by the camera – the “camera master”	Indefinite
2.12.	Proxy forms	3 years
2.13.	Proxy forms used at Court convened meetings	3 years
2.14.	Register of allotments - after a person ceased to be a member	15 years
2.15.	Register of directors and certain officers	15 years
2.16.	Register of directors’ shareholding	15 years
2.17.	Register of members	15 years
2.18.	Register of mortgages and debentures and fixed assets	15 years

2.19.	Supporting schedules to books of account and ancillary books of account	15 years
2.20.	Register of disclosures of person who hold beneficial interest equal to or in excess of 5% of the securities of that class issued	Indefinite

* Please note, the Companies Act, no.71 of 2008 (new Act), contains substantially different requirements relating to the retention of records. This Guide will be updated when the new Act becomes effective.

3. STATE OWNED ENTITIES

Public Finance Management Act

State owned entities must apply the **Public Finance Management Act (PFMA) No. 1 of 1999**. Entities that fall under the definition of the PFMA are National and Provincial Government, which would include entities such as The Human Rights Commission, the Competition Board, Eskom, Denel, etc. The PFMA has a list of all the entities that it applies to in the Schedules attached to the Act.

Paragraph 40(1)(a) of the PFMA states that: “The accounting officer for a department, trading entity or constitutional institution must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards “

Accounting officers must retain all financial information in its original form as follows:

- (1) information relating to one financial year – should be retained for one year after the audit report for the relevant financial year has been tabled in Parliament or the provincial legislature.
- (2) Information relating to more than one financial year – should be retained for one year after the audit report for the last of the financial years to which the information relates.

If the retention period has expired the information may be stored in an alternative form that still ensures the integrity and reliability of the information.

The Treasury Regulations section 17(2) to the PFMA provides the detailed guidance to this section of the PFMA regarding the retention of documents:

	Document	Retention period
3.1.	General ledger and cash books or similar records	15 years
3.2.	Internal audit reports	10 years
3.3.	Main transaction summary records, including general journals and transaction summaries.	10 years
3.4.	Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques, invoices and similar records associated with the receipt or payment of money	5 years

3.5.	Source documents; General and incidental source documents not included above, including stock issue and receivable notes, copies of official orders (other than copies for substantiating payments or for unperformed contracts), bank deposit books and post registers	5 years
3.6.	Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged	5 years
3.7.	Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets	5 years
3.8.	System appraisals	10 years

Municipal Finance Management Act

The **Municipal Finance Management Act No. 56 of 2003** (MFMA) applies to all municipalities and municipal entities and has as its goal to secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government.

With regards to the retention of documents it states in Section 62(1)(b) that:

“The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards”.

Due to the absence of more specific guidelines, we would advise that the same periods as for the PFMA are used, except where specific other regulations are available for use in the various industries.

4. LABOUR RELATIONS

Employee relations are governed by a variety of legislation, including the Basic Conditions of Employment Act and the Labour Relations Act.

The **Basic Conditions of Employment Act No. 75 of 1997** states that various documents relating to employees should be kept for future reference:

	Document	Retention period
4.1.	Written particulars of employee must be kept after termination of employment.	3 years
4.2.	Employee's name and occupation	3 years
4.3.	Time worked by each employee	3 years
4.4.	Remuneration paid to each employee	3 years
4.5.	Date of birth of any employee under 18 years of age	3 years

There is also a reference that an employer who keeps records in terms of this section is not required to keep any other record of time worked and remuneration paid as required by any other employment law.

The **Labour Relations Act No. 66 of 1995** applies to employees, employers, trade unions and employers' organisations and provides a framework where the parties can collectively bargain regarding remuneration, basic conditions of service and other matters of importance. Various records relating to the structures created in this Act must be kept for future reference.

	Document	Retention period
4.6.	Bargaining Council must retain the following documents in original or reproduced form: <ul style="list-style-type: none"> - books of account - supporting vouchers - income and expenditure statements - balance sheets - auditor's reports - minutes of its meetings 	3 years
4.7.	Registered trade unions and registered employers' organisations must retain the following documents in original or reproduced form: <ul style="list-style-type: none"> - books of account - supporting vouchers - records of subscriptions or levies paid by its members - income and expenditure statements - balance sheets - auditor's reports - minutes of its meetings 	3 years
4.8.	Registered trade unions and registered employers' organisation must retain a list of members	Indefinite
4.9.	Registered trade unions and registered employers' organisations must retain the ballot papers for a period of three years from the date of every ballot	3 years
4.10.	Records to be kept by the employer in original or reproduced form: <ul style="list-style-type: none"> - Collective agreements - Arbitration award 	3 years
4.11.	Employer must keep prescribed details of any strike, lock-out or protest action involving its employees	Indefinite
4.12.	Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions	Indefinite
4.13.	The Commission must keep the following records: <ul style="list-style-type: none"> - Books of accounts - Records of income, expenditure, assets and liabilities 	Indefinite

5. HEALTH AND SAFETY

The **Compensation for Occupational Injuries and Diseases Act No. 130 of 1993** provides for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death sustained by these injuries at their place of work.

The Act states that certain records should be retained:

	Document	Retention period
5.1.	Register, record or reproduction of the earnings, time worked, payment for piece work and overtime and other prescribed particulars of all the employees	4 years

The **Occupational Health and Safety act No. 85 of 1993** was enacted to provide for the health and safety of employees at work and for persons using plant and machinery as well as other hazardous employment conditions. Certain documents must be kept based on the General Administrative Regulations:

	Document	Retention period
5.2.	A health and safety committee shall keep record of each recommendation made to an employer in terms of issues affecting the health of employees and of any report made to an inspector in terms of the recommendation	3 years
5.3.	Records of incidents reported at work (Annexure 1 of the General Administrative Regulations, 2003)	3 years
5.4.	Records of assessments and air monitoring, and the asbestos inventory (Asbestos Regulations, 2001)	Min of 40 years
5.5.	Medical surveillance records (Asbestos Regulations, 2001)	Min of 40 years
5.6.	Records of risk assessments and air monitoring results (Hazardous Biological Agents Regulations)	40 years
5.7.	Medical surveillance records (Hazardous Biological Agents Regulations)	40 years
5.8.	Records of assessments and air monitoring (Hazardous Chemical Substances Regulations, 1995)	30 years
5.9.	Medical surveillance records (Hazardous Chemical Substance Regulations, 1995)	30 years
5.10.	Records of assessments and air monitoring (Lead Regulations, 2001)	40 years
5.11.	Medical surveillance records (Lead Regulations, 2001)	40 years
5.12.	All records of assessments and noise monitoring (Noise-induced Hearing Loss Regulations, 2003)	40 years
5.13.	All medical surveillance records, including the baseline audiogram of every employee (Noise-induced Hearing Loss Regulations, 2003)	40 years

6. CREDIT AGREEMENTS

The public is protected by the **National Credit Act No. 34 of 2005** to promote and advance the social and economic welfare of consumers, by promoting a fair and transparent credit industry and assisting consumers to make more informed decisions before buying goods and services on credit. To ensure that this process occurs, certain documents must be retained:

	Document	Retention period
6.1.	Debt Counsellors, in respect of each consumer: <ol style="list-style-type: none"> i. application for debt review ii. copy of all documents submitted by the consumer iii. copy of rejection letter (if applicable) iv. debt restructuring proposal v. copy of any order made by the tribunal and/or the court vi. copy of clearance certificate 	3 years
6.2.	Credit Providers, in respect of each consumer: <ol style="list-style-type: none"> i. application for credit ii. application for credit declined iii. reasons for decline of application for credit iv. pre-agreement statement and quote v. credit agreement entered into with consumer vi. documentation in support of steps taken in terms of section 81(2) of the Act vii. record of payments made viii. documentation in support of any steps taken after default by consumer 	3 years
6.3.	Credit Providers, in respect of operations: <ol style="list-style-type: none"> i. record of income, expenses and cash flow ii. credit transaction flows iii. management accounts and financial statements 	3 years
6.4.	Credit Bureau: <ol style="list-style-type: none"> i. All documents relating to disputes, inclusive of but not limited to: <ol style="list-style-type: none"> a. documents from the consumer b. documents from the entity responsible for disputed information c. documents pertaining to the of the dispute ii. Correspondence addressed to and received from sources of information as set out in section 70(2) of the Act 	3 years
6.5.	Details and results of disputes lodged by the consumers	1.5 years
6.6.	Enquiries	2 years
6.7.	Payment Profile	5 years
6.8.	Adverse information	1 year
6.9.	Debt restructuring	Until a clearance certificate is issued

6.10.	Civil court judgments	The earlier of 5 years or until the judgment is rescinded by a court or abandoned by the credit provider in terms of section 86 of the Magistrate's Court Act, 32 of 1944
6.11.	Administration orders	The earlier of 10 years or until order is rescinded by a court
6.12.	Sequestrations	The earlier of 10 years or until order is rescinded by a court
6.13.	Liquidations	Unlimited
6.14.	Rehabilitation orders	5 years

7. AUDITORS

The **Auditing Profession Act No. 26 of 2005** implicitly requires that documents should be retained for 3 years. Section 47 requires the regulatory board or any person authorised by it to inspect or review the practice of a registered auditor at least every three years.

	Document	Retention period
7.1.	Working papers, statements, correspondence, books or other document in the possession or under the control of a registered auditor	3 years

8. TAXATION

The **Income Tax Act No. 58 of 1962** is the act governing all the laws relating to income taxes and donations and the **Value Added Tax Act No. 89 of 1991** provides for the taxation of the supply of goods and services as well as the importation of goods and services. These acts provide specific time periods that documents must be retained:

	Document	Retention period
	<i>Income tax</i>	
8.1.	Records kept by person who has rendered a return (from date return was lodged) including: <ul style="list-style-type: none"> - ledgers - cash books - journals - cheque books - bank statements - deposit slips - paid cheques - invoices - stock lists - other books of accounts - electronic representations of information 	5 years
8.2.	Records relating to taxable capital gain or assessed capital loss (from date return was lodged): <ul style="list-style-type: none"> - agreement for acquisition, disposal or lease of asset - details of asset transferred into a trust - copies of valuations used in determining the taxable capital gain or assessed capital loss - invoices or other evidence of payment records such as bank statements and paid cheques relating to any costs claimed in respect of the acquisition, improvement or disposal of any asset - details supporting the proportional use of an asset for both private and business purposes - details of any continuous absence of more than 6 months from a primary residence, as contemplated in the Eighth Schedule 	5 years
8.3.	Documents relating to where objection and appeal is lodged	Until appeal/objection is finalised
	<i>Value added tax</i>	
8.4.	Vendors are obliged to keep the following records (from date the income tax return was lodged): <ul style="list-style-type: none"> - Record of all goods and services - The rate of tax applicable to the supply and the suppliers or their agents - Invoices - Tax invoices - Credit notes - Debit notes - Bank statements - Deposit slips 	5 years

	<ul style="list-style-type: none"> - Stock lists - Paid cheques 	
8.5.	Records of importation of goods and documents: <ul style="list-style-type: none"> - bill of entry - documents prescribed by Custom and Excise Act - receipt for payment of import tax 	5 years
8.6.	Vendors should keep the following information: <ul style="list-style-type: none"> - charts and codes of accounts - accounting instruction manual - system and programme documentation which describes the accounting system used in the various accounting period - where the vendor's basis of accounting has changed lists of debtors and creditors as at the end of the tax period immediately preceding the changeover period 	5 years
8.7.	Documentary proof substantiating the zero rating of supplies	5 years

The documents relating to Income Tax must be retained in their original form or electronic format as prescribed by the Commissioner.

The documents relating to VAT shall be kept in either a book form for a period of 5 years after the completion of the last entry in the book or in another form for a period of 5 years after the completion of the last transactions, acts or operations to which they relate. The Commissioner may determine the form in which information may be kept including electronic format. This does not however apply to original record of ledgers, cash books, journals and paid cheques.

9. ELECTRONIC COMMUNICATION

The **Electronic Communication and Transactions Act No. 25 of 2002** regulates electronic communication and prohibits the abuse of information. There are certain principles stated for the electronic collection of personal information and also the timeframe that this information must be kept:

	Document	Retention period
9.1.	Personal information and the purpose for which the data was collected must be kept by the person who electronically requests, collects, collates, processes or stores the information	As long as information is used, and at least 1 year thereafter
9.2.	A record of any third party to whom the information was disclosed	As long as information is used and at least 1 year thereafter
9.3.	All personal data which has become obsolete	Destroy

#284951