



## **DATA RETENTION POLICY**

### **PURPOSE**

#### **Overview**

In the course of carrying out its various functions and activities, De Zalze Golf Club collects information from individuals and external organizations and generates a wide range of data/information which is recorded. These records can take many different forms, such as:

- Letters received from third parties
- Copy letters which have been sent out
- Personnel records
- Invoices
- Completed application forms
- Financial records
- Contact lists
- Contracts
- Email communications and attachments
- Photos

Many of the above documents can be retained as physical paper records or in electronic form.

Retention of specific documents may be necessary to:

- Fulfill statutory or other regulatory requirements.
- Evidence events/agreements in the case of disputes.
- Meet operational needs.
- Ensure the preservation of documents of historic or other value.

The untimely or incorrect destruction of documents could cause De Zalze Golf Club:

- Operational problems.
- Difficulty in defending litigious claims.
- Reputational damage.
- Failure to comply with the Protection of Personal Information Act (POPIA) 2013.

Conversely, the permanent retention of all documents is undesirable, and appropriate disposal is to be encouraged for the following reasons:

- To avoid unnecessary/excessive use of storage space (electronic or physical).
- Indefinite retention of personal data may be unlawful.

- Reduction of fire risk (in the case of paper records).
- To keep records and office accommodation de-cluttered.
- Good practice in records management emphasizes the importance of organizations having in place systems for the timely and secure disposal of documents/records that are no longer required for business purposes.

### **Scope & purpose**

The purpose of this policy is to provide a framework to govern management decisions on whether a particular document (or set of documents, including electronic versions) should either be:

- Retained – and if so in what format, and for what period; or
- Disposed of – and if so when and by what method.

### **The retention/disposal protocol**

Any decision whether to retain or dispose of a document should be taken in accordance with the retention/disposal protocol. This protocol consists of:

- The key disposal/retention considerations criteria checklist, set out in Appendix I. Essentially no document should be disposed of unless all these have been considered in relation to the document.
- The Retention Schedules (taken from the South African Institute of Chartered Accountants) contained in Appendix II. These provide guidance on recommended and mandatory minimum retention periods for specific classes of documents/records. Where a retention period has expired in relation to a particular document a review should always be carried out before a final decision is made to dispose of that document. Such reviews need not necessarily be detailed or time consuming.

### **Disposal of documents/records**

A separate policy describes De Zalze Golf Club policy regarding secure disposal of confidential information.

As guidance however, staff should take into account the following considerations when selecting any method of disposal:

- Under no circumstances should paper documents or removable media (CDs, DVDs, discs, etc) containing personal data or confidential information be simply binned or deposited in refuse tips. To do so could result in the unauthorized disclosure of such information to third parties and render De Zalze Golf Club liable to action under the POPI Act 2013. Such documents should be destroyed on site (e.g., by shredding), or by a third party in a manner which complies with the POPI Act 2013.
- Deletion – the Information Commissioner’s Office has advised that if steps are taken to make data virtually impossible to retrieve, then this will be regarded as equivalent to deletion.

## **Document retention and the POPI Act 2013**

Staff should be aware that under the POPI Act 2013 personal data processed for any purpose must not be kept unless the person was given notice and consent was obtained directly from the person for the specific purpose. Staff should be made aware that the personal data may not be retained for longer than is necessary for that purpose. In other words, retaining documents or records that contain personal data beyond the length of time necessary for the purpose for which that data was obtained is unlawful. Staff should be aware that under the POPI Act 2013 personal data retained for any purpose must be protected with suitable information security measures as envisaged by the Act.

## **How long should I store emails?**

Not only does the storage of large numbers of emails consume valuable computer resources but if the saved messages refer to individuals then they are also likely to be governed by the POPI Act 2013. This means that the subject of the message may have the right to request access to the email. Emails should therefore not be retained for longer than is absolutely necessary.

As a rule of thumb, emails should be deleted after 6 months unless it is necessary to retain them for longer.

## **Preserving the evidential weight of electronic records**

The Electronic Communications and Transactions Act, Act. No. 25 of 2002, prescribe information security controls to preserve the evidential weight of electronic records and e-mails. The evidential weight of electronic records and e-mails is a continuum, where the weight of the evidence increases with the number of information security controls applied. The following lists examples of such specific information security controls:

- Restrict access to records
- Encrypt records
- Store records on write once, read many times, media
- Apply records management principles
- Store records in a database management system
- Apply change control to the records management system
- Backup data
- Use digital certificates to confirm the identities of senders and receivers of messages

### **Role of Backups in records retention**

Backups are not ideal but not excluded, as a means of electronic record and e-mail retention for the prescribed periods. It is difficult to implement a proper filing plan using backup media and therefore it is difficult to arrange, retrieve and dispose of records.

The role of backups in records management is more suited as a means to recover electronic records management systems and e-mail systems in the event of a disaster or technology failure.

### **SARS Electronic form of record-keeping in terms of section 30(1)(b) of the Tax Administration Act, 2011**

The following record keeping forms are set out by SARS:

1. The records, books of account, and documents referred to in section 29, must be kept or retained
  - a) In their original form in an orderly fashion in a safe place;
  - b) In the form, including electronic form, as may be prescribed by the Commissioner in a public notice; or
  - c) In a form specifically authorised by a senior SARS official in terms of subsection 2
  
2. A senior SARS Official may, subject to the conditions as the official may determine, authorise the retention of information contained in records, books of account or documents referred to in section 29 in a form acceptable to the official.

**APPENDIX 1: KEY DISPOSAL/RETENTION CONSIDERATIONS CRITERIA CHECKLIST**

1. Has the document/record set been appraised by a Departmental Manager?
2. Is retention required to fulfil statutory or other regulatory requirements?
3. Is retention required to evidence events in the case of dispute?
4. Is retention required to meet the operational needs of De Zalze HOA?
5. Is retention required because the document or record is of historic interest or intrinsic value?

## APPENDIX II: SUGGESTED RETENTION PERIOD FOR DIFFERENT TYPES OF DOCUMENTS

TYPE OF RECORD	SUGGESTED RETENTION PERIOD
<b>COMPANIES ACT, NO 71 OF 2008</b>	
Company records (Notice of Incorporation; Registration certificate; Memorandum of Incorporation and alterations or amendments; Rules; Register of company secretary and auditors)	Indefinite
<ul style="list-style-type: none"> <li>• Copies of annual financial statements required by the Act</li> <li>• Copies of accounting records as required by the Act</li> <li>• Record of directors and past directors, after the director has retired from the company</li> <li>• Written communication to holders of securities</li> <li>• Copies of reports presented at the annual general meeting of the company</li> <li>• Minutes and resolutions of directors' meetings, audit committee and directors' committees</li> </ul>	7 Years
<b>ELECTRONIC COMMUNICATION AND TRANSACTION ACT, NO 25 OF 2005</b>	
<ul style="list-style-type: none"> <li>• 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</li> </ul>	As long as information is used, and at least 1 year thereafter
<ul style="list-style-type: none"> <li>• A record of any third party to whom the information was disclosed must be kept for as long as the information is used</li> </ul>	As long as information is used and at least 1 year thereafter
<ul style="list-style-type: none"> <li>• All personal data which has become obsolete</li> </ul>	Destroy
<b>COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, NO 130 OF 1993</b>	
<ul style="list-style-type: none"> <li>• Register, record or reproduction of the earnings, time worked, payment for piece work and overtime and other prescribed particulars of all the employees</li> </ul>	4 years
<b>OCCUPATIONAL HEALTH AND SAFETY ACT, NO 85 OF 1993</b>	
<ul style="list-style-type: none"> <li>• 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</li> </ul>	3 years
<ul style="list-style-type: none"> <li>• Records of incidents reported at work (Annexure 1 of the General Administration Regulations, 2003)</li> </ul>	3 years
<ul style="list-style-type: none"> <li>• Records of assessments and air monitoring, and the asbestos inventory</li> </ul>	40 years
<ul style="list-style-type: none"> <li>• Medical surveillance records               <ul style="list-style-type: none"> <li>◦ Asbestos Regulations, 2001, Regulation 16(1) 40 years</li> <li>◦ Hazardous Biological Agents Regulations, 2001, Regulation 9(1) and (2) 40 years</li> <li>◦ Hazardous Chemical Substance Regulations, 1995, Regulation 9 30 years</li> <li>◦ Lead regulations, 2001, Regulation 10 40 years</li> </ul> </li> </ul>	

<b>BASIC CONDITIONS OF EMPLOYMENT ACT, NO 75 OF 1997</b>	
<ul style="list-style-type: none"> <li>• Written particulars of employee must be kept after termination of employment.</li> </ul>	3 years
<ul style="list-style-type: none"> <li>• Employee's name and occupation</li> </ul>	3 years
<ul style="list-style-type: none"> <li>• Time worked by each employee</li> </ul>	3 years
<ul style="list-style-type: none"> <li>• Remuneration paid to each employee</li> </ul>	3 years
<b>UNEMPLOYMENT INSURANCE ACT, NO 63 OF 2002</b>	
<ul style="list-style-type: none"> <li>• Employers must maintain personal records of each of their current employees in terms of <ul style="list-style-type: none"> <li>◦ names;</li> <li>◦ identification numbers;</li> <li>◦ monthly remuneration; and</li> <li>◦ address where the employee is employed</li> </ul> </li> </ul>	Refer to 13.6 under Income Tax Act
<b>TAX ADMINISTRATION ACT (TAA), NO 28 OF 2011</b>	
<ul style="list-style-type: none"> <li>• Taxpayers that have submitted a return</li> </ul>	5 years from date of return
<ul style="list-style-type: none"> <li>• A person who has been notified or is aware that the records are subject to an audit or investigation</li> </ul>	In addition to the 5-year rule, records must be retained until the audit is concluded or the assessment or decision becomes final
<ul style="list-style-type: none"> <li>• A person who has lodged an objection or appeal against an assessment or decision under the TAA</li> </ul>	In addition to the 5-year rule, records must be retained until the audit is concluded or the assessment or decision becomes final
<b>INCOME TAX ACT</b>	
<ul style="list-style-type: none"> <li>• In respect of each employee the employer shall keep a record showing: <ul style="list-style-type: none"> <li>◦ Amount of remuneration paid or due by him to the employee;</li> <li>◦ The amount of employees tax deducted or withheld from the remuneration paid or due;</li> <li>◦ The income tax reference number of that employee;</li> <li>◦ Any further prescribed information;</li> <li>◦ Employer Reconciliation return (EMP501)</li> </ul> </li> </ul>	5 years from date of submission
<ul style="list-style-type: none"> <li>• Notwithstanding the provisions of Part A of Chapter 4 of the Tax Administration Act, a registered micro business must only retain a record of: <ul style="list-style-type: none"> <li>◦ (a) amounts received by that registered micro business during a year of assessment;</li> <li>◦ (b) dividends declared by that registered micro business during a year of assessment;</li> <li>◦ (c) each asset of that registered micro business as at the end of a year of assessment with a cost price of more than R10 000; and</li> <li>◦ (d) each liability of that registered micro business as at the end of a year of assessment that exceeded R10 000.</li> </ul> </li> </ul>	5 years from date of submission or 5 years from end of the relevant tax year depending on type of transaction

## VALUE ADDED TAX (VAT)

<ul style="list-style-type: none"><li>• Where a vendor's basis of accounting is changed the vendor shall prepare lists of debtors and creditors showing the amounts owing by the debtors and owing to the creditors at the end of the tax period immediately preceding the changeover period</li></ul>	5 years from date of submission of the return
<ul style="list-style-type: none"><li>• Records of importation of goods and documents<ul style="list-style-type: none"><li>◦ bill of entry, or</li><li>◦ other documents prescribed by the Custom and Excise Act;</li><li>◦ proof that the VAT charge has been paid to SARS</li></ul>Section 16 refers to Section 55 of the Tax Administration Act</li></ul>	5 years from date of submission of the return
<ul style="list-style-type: none"><li>• Vendors are obliged to keep the following records:<ul style="list-style-type: none"><li>◦ record of all goods and services</li><li>◦ the rate of tax applicable to the supply and the suppliers or their agents</li><li>◦ invoices</li><li>◦ tax invoices</li><li>◦ credit notes</li><li>◦ debit notes</li><li>◦ bank statements</li><li>◦ deposit slips</li><li>◦ stock lists</li><li>◦ paid cheques</li></ul></li></ul>	5 years from date of submission of the return
<ul style="list-style-type: none"><li>• Documentary proof substantiating the zero rating of supplies</li></ul>	5 years from date of submission of the return
<ul style="list-style-type: none"><li>• Where a tax invoice or credit or debit note has been issued in relation to a supply by an agent or to an agent or a bill of entry as described in the Customs and Excise Act the agent shall maintain sufficient records to enable the name, address and Vat registration number of the principal to be ascertained.</li></ul>	5 years from date of submission of the return