
STATUTORY INSTRUMENTS

1992 No. 3247 (S. 262)

REGISTERS AND RECORDS, SCOTLAND

The Disposal of Records (Scotland) Regulations 1992

Made - - - - 11th December 1992

Coming into force - - 25th December 1992

Whereas a draft of these Regulations has been laid before each House of Parliament and neither House has resolved that they be not made;

Now, therefore, in exercise of the powers conferred on him by section 12 of the Public Records (Scotland) Act 1937(1) and all other powers enabling him in that behalf, the Secretary of State hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disposal of Records (Scotland) Regulations 1992 and shall come into force on the fourteenth day after the day on which they are made.

(2) In these Regulations—

“the 1937 Act” means the Public Records (Scotland) Act 1937;

“health board” means a health board constituted under section 2 of the National Health Service (Scotland) Act 1978(2);

“local authority” means a regional, islands or district council;

“the Keeper” means the Keeper of the Records of Scotland; and

“records” does not include court records.

Application

2. These Regulations apply to any records which have been transmitted to the Keeper in pursuance of the 1937 Act or otherwise and which—

(a) are of insufficient value to justify their preservation; or

(1) 1937 c. 43; section 12 was extended by the Public Registers and Records (Scotland) Act 1948 (c. 57), section 5 and amended by the National Heritage (Scotland) Act 1985 (c. 16), section 19(3).
(2) 1978 c. 29; section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1 and by the National Health Service and Community Care Act 1990 (c. 10), section 28 and Schedule 9, paragraph 19(1).

- (b) would more appropriately be in the custody of any person, body or institution other than the Keeper.

Disposal of records

- 3. Subject to regulation 4 below, the Keeper may authorise the disposal—
 - (a) of any records to which these Regulations apply by virtue of regulation 2(a) above, other than any record of older date than the year 1707, by destruction of those records; or
 - (b) of any records to which these Regulations apply by virtue of regulation 2(b) above, by transferring such records to the person, body or institution in whose custody the records would be more appropriately be kept.

Procedure for disposal

- 4. Before authorising the disposal of any records as mentioned in regulation 3 above, the Keeper shall obtain the consent of the Scottish Records Advisory Council and—
 - (a) in relation to any records relating to a government department—
 - (i) the Secretary of State or other Minister of the Crown in charge of that government department; or
 - (ii) where the government department is no longer in existence or no longer performs the function to which those records relate—
 - (aa) in the case where the same or similar function is exercisable by another government department, the Secretary of State or other Minister of the Crown in charge of that other government department; or
 - (bb) in any other case, the Secretary of State;
 - (b) in relation to any records belonging to a local authority, that local authority;
 - (c) in relation to any Health Board records, the Secretary of State; and
 - (d) in relation to the records of heritors, the Secretary of State; and
 - (e) in any other case, where the records were transmitted to the Keeper by any board of trustees or other body or person under section 5(1) of the 1937 Act and that board, body or person is still in existence, the trustees of that board, or, as the case may be, that body or that person.

Revocation

5. The Regulations made by the Lord Justice General and Lord President and the Secretary of State in 1940 relating to the disposal of documents not to be preserved by the Keeper⁽³⁾ are hereby revoked insofar as not previously revoked.

St Andrew's House,
Edinburgh
11th December 1992

Fraser of Carmyllie
Minister of State, Scottish Office

(3) [S.R. & O. 1940/2107](#) (Rev XIX p 846: 1940 I, p917). These regulations were revoked in part by [S.I.1969/1756](#) and [S.I. 1990/106](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the disposal by the Keeper of the Records of Scotland (“Keeper”) of any records, other than court records.

They provide that the Keeper may authorise the destruction of any such records (other than a record of an older date than the year 1707) where they are of insufficient value to justify their preservation (regulation 3(a)).

They also provide that the Keeper may dispose of any records which would more appropriately be in the custody of any person, body or institution other than the Keeper by transferring them to that person, body or institution (regulation 3(b)).

Before disposing of any records, however, the Keeper requires to obtain the consent of the Scottish Records Advisory Council and, in relation to particular records, certain other persons or bodies (regulation 4).

The Regulations revoke the Regulations made by the Lord Justice General and the Lord President and the Secretary of State in 1940 relating to the disposal of documents not to be preserved by the Keeper ([SR and O 1940/2107](#)) in so far as not previously revoked.