

Copying and Publishing Public Records – Copyright for Researchers

What is copyright?

Copyright is a type of property founded on a person's creative skill and labour. It is independent of the custody or ownership of the physical item.

Copyright protects the original expression of the author's ideas or information. It consists of a number of exclusive economic rights to engage in certain acts regarding an original work. These rights include the right to copy, publish, communicate (eg. broadcast, make available online) or publicly perform the copyright material.

The copyright law in Australia is set out in the Commonwealth *Copyright Act 1968*, and in court decisions. It protects original literary, dramatic, musical or artistic works, sound recordings, radio and television broadcasts.

Who owns copyright in public records?

The Victorian government owns copyright in most of the records held by the Public Record Office Victoria (PROV), as they are official records produced by Victorian government agencies.

The vast majority of government records in PROV's collection can be considered as 'literary works', and as such are covered by copyright. Most government records are considered unpublished and as such copyright will exist in most government records.

The State of Victoria is not the copyright owner for records in the collection that were not made by the government, for example, letters written by private individuals to the government.

How long does copyright last?

The length of time a work is protected by copyright varies depending on the type of material. Most unpublished material remains in copyright unless published. As a result of the Australia-US Free Trade Agreement (AUSFTA), the period of protection for most material (except government material) was extended on 1 January 2005. There is no revival of copyrights that had already expired by that date.

Refer to the tables on Pages 2 & 3 of this guide for the duration of copyright in different types of works.

When can I reproduce a work?

You can reproduce a work if:

- it is no longer in copyright, or
- you are permitted under the 'fair dealing' provisions of the Copyright Act, or
- you have the permission of the copyright owner.

What is fair dealing?

The fair dealing provisions of the Copyright Act permit some copying without the express permission of the copyright owner.

Fair dealing allows you to reproduce a reasonable portion of a work for research or study.

A fair dealing for these purposes is defined in the Act as:

- a single copy of a journal article, or
- one chapter or 10% of a book of ten or more pages, or
- 10% of the number of words of a work in electronic form.

What are my responsibilities?

When using records at PROV, it is your responsibility to:

- determine if the material you want to use is still in copyright
- identify who owns the copyright, and
- contact the copyright owner to obtain permission to use the copyright material

How do I get permission to publish?

Speak to PROV staff for advice in the first instance if you need permission to publish any records in our collection.

- The Victorian government owns copyright in the majority of records in the collection. Be aware however, that files may contain material which is in private copyright.
- PROV cannot grant permission to reproduce or publish records in privately owned copyright, nor can it undertake to find copyright owners on your behalf.
- For permission to publish government material, use the [Application for Permission to Publish](#) forms.
- Permissions to publish commercially are administered by the Secretary of the agency responsible for creating or transferring the record to PROV.
- Permissions to publish in not-for-profit publications are administered by PROV.
- Permission must be sought from the copyright owner prior to publication, regardless of the type of publication.

Duration of copyright by type of work

Crown copyright – Material made, or first published, by a Commonwealth, State or Territory

Type of work	Publication status	Copyright has expired if	Protection period if work still in copyright on 1 January 2005
Literary, dramatic or musical works	Published	First published before 1 January 1955	50 years from end of year of first publication
	Unpublished	N/A	Indefinite
Artistic works Including maps & plans	N/A	Made before 1 January 1955	50 years from end of year of creation
Photographs, maps & plans created before 1 May 1969	Published	Made before 1 January 1955	50 years from end of year in which photograph was taken
	Unpublished	N/A	Indefinite
Photographs, maps & plans created after 1 May 1969	Published	(Will still be in copyright on 1 January 2005)	50 years from end of year of first publication
	Unpublished	N/A	Indefinite

Private copyright

Type of work	Publication status		Copyright has expired if	Protection period if work still in copyright on 1 January 2005
Literary, dramatic or musical works	Published	In author's lifetime	Author died before 1 January 1955	70 years from end of year of author's death
		Posthumous	First published before 1 January 1955	70 years from end of year of first publication
	Unpublished		N/A	Indefinite
Artistic works Including maps & plans	N/A		Creator died before 1 January 1955	70 years from end of year of creator's death
Photographs	Published		Made before 1 January 1955	70 years from end of year of creator's death
	Unpublished		N/A	Indefinite
Anonymous or pseudonymous works	Published		First published or made before 1 January 1955	70 years from end of year of first publication
Computer programs	N/A		Creator died before 1 January 1955	70 years from end of year of creator's death

Further reading

The following organisations are recommended sources of more detailed information on copyright.

The Australian Copyright Council

The Australian Copyright Council publishes a large range of information sheets and books on copyright. Other services include seminars, research, consultancy and free legal advice in some circumstances.

245 Chalmers Street
Redfern NSW 2016

Tel: (02) 9318 1788

Web: www.copyright.org.au

The Arts Law Centre of Australia

The Arts Law Centre is a national community legal centre that provides advice and information on a range of legal issues to professionals and arts organisations. Free advice by telephone is available toll free.

Tel: 1800 221 457

The Commonwealth Attorney-General's Department

The Commonwealth Attorney-General's Department publishes a booklet called *Copyright Law in Australia: A Short Guide*, which may be accessed via the publications section of the website.

Tel: (02) 6250 6875

Web: www.law.gov.au

Copyright collecting societies

Copyright collecting societies are not-for-profit organisations that license or administer certain uses of copyright material on behalf of copyright owners.

Contact details for three of the major collecting societies are listed below.

Copyright Agency Limited (CAL)

The Copyright Agency Limited (CAL) administers copying licences on behalf of most of Australia's authors and publishers and journalist members of the Media Entertainment and Arts Alliance.

CAL also administers statutory licences for educational institutions and government.

Level 19, 157 Liverpool Street

Sydney NSW 2000

Tel: (02) 9394 7600

Web: www.copyright.com.au

Screenrights (the Audio-Visual Copyright Society Limited)

Screenrights may be able to help with identifying and finding copyright owners of audiovisual material.

Level 3, 156 Military Road

Neutral Bay NSW 2089

Tel: (02) 9904 0133

Web: www.screen.org

VISCOPY

VISCOPY licenses the works of visual artists, including craft workers, photographers and designers.

Level 1, 72-80 Cooper Street

Surry Hills NSW 2010

Tel: (02) 9280 2844

Web: www.viscopy.com

For details of other copyright collecting societies, please contact the Australian Copyright Council.

Disclaimer

This information sheet is intended as a general guide to researchers on copyright and archives. It is not a substitute for legal advice and should not be relied on as such. If you need to know how the law applies in a particular situation, please seek advice from a lawyer.