



Department for Culture and the Arts
State Records Office of Western Australia

Information Sheet

COPYRIGHT

What is Copyright?

Copyright is 'property' and can be owned by an individual, institution or organisation. While the Copyright Act gives the owner certain rights regarding the duplication of his/her work, it is the form that is being protected rather than the ideas or information contained therein. If the duplication of ideas in a work constitutes an infringement of copyright, it is because a substantial amount of the work has been copied and not because the copyright owner has any exclusive rights to the ideas contained in the work. Works must exist in a material form before copyright can subsist in them.

Who owns Copyright in government archives ?

- 1) A basic principle of copyright is that the author of a work is the first owner of any copyright subsisting in that work
- 2) "Crown Copyright" The Commonwealth or a state is the owner of the copyright in every work made by, or under the direction of, or control of, the Commonwealth or a state. It is irrelevant whether the author is employed by the Commonwealth or a state or is under contract.

This means that the copyright is held by the Government. Crown copyright exists in perpetuity and does not expire. Within Western Australia, some agencies administer their own copyright. The State Records Office does not hold copyright in the archives collection and cannot provide permission to publish.

Copying unpublished material

The copying of unpublished material must be undertaken under S.40 or S.51 of the Copyright Act. Under the Act, only that portion of a work, ie a file, letter or plan, which relates to the area of research should be copied, a concept known as "Fair dealing".

"Fair dealing", S40.(2) takes into account the purpose for which the copy is required and the amount and substantiality of the amount to be copied in relation to the whole. Copying of whole works should not be undertaken unless the copying complies with S.51 (1)

S.51(1) specifically relates to the copying of old unpublished works held by libraries and archives. Under this provision, a copy of the whole work may be made for the purpose of research or study, or with a view to publication, only if

- the work forms part of a collection held by a library or archives where it is available for public inspection; and

- it is more than 50 years since the author's death.

This prohibition applies to all unpublished material, no matter how trivial. Should you wish to copy a work in the State Records Office collection for a purpose other than private research and study, we would advise contacting the agency responsible. The State Records Office is simply the custodian of the records and cannot provide permission to publish.

Publication of material must be carried out under s.52 of the Copyright Act.

Publishing previously unpublished items

There is nothing in the Copyright Act which requires the institution housing a work to be acknowledged in a published version of the work. Nevertheless, we would prefer that you acknowledge the source of your material, simply so that others may be able to locate it properly. For more details on acknowledging and referencing records in the State Records Office collection, see our Information Sheet on Referencing.

When publishing any material, the original author must be acknowledged.

While many items in the State Records Office may be copied, it is ultimately the researcher's responsibility to ensure that the Copyright Act is complied with if he/she wishes to publish or display items copied from the State.

Before requesting a copy

Before you lodge a request for copying with the State Records Office, please consider:

the fragility of the item*, and

the reason you require a copy.

Whatever the reason, whether for private research, as part of a report or thesis, or for publication in an article, book or display, you need to be aware of the conditions which apply to copying under the Copyright Act 1968.

All copying, whether from microfilms, original records or digital images, is conducted under this Act (and subsequent amendments). The Act attempts to balance the need to protect intellectual content in whatever form it takes from unauthorised copying, against society's right to knowledge and information, by allowing copying and publication under certain conditions.

For more information on copyright, contact the Copyright Council of Australia,
www.copyright.org.au

* **Note:** The Copyright Act does not indicate the manner in which copying may be done, and there is no requirement for photocopies to be provided. Photocopying of archives is provided as a service to clients and will only be undertaken if there is no risk to the physical integrity of the item.

**The supply of copies of materials to other libraries and archives to enable private research and study is not considered publication.