



Archives ACT

Finding Aid

Copyright of archives

What is copyright

Copyright is a type of legal protection for people who express ideas and information in certain forms. The most common forms are: writing, visual images, music and moving images. Copyright protects the *form* or *way* an idea or information is expressed, not the idea or information itself. Copyright restricts how anyone can reproduce, issue to the public, lend, rent or adapt a work without permission from the copyright owner. It applies for some years, set by Commonwealth law, the *Copyright Act 1968*. Copyright exists without having a formal registration process. This means that photographs, plans, architects drawings, letters and other manuscript documents in archive collections have copyright attached to them.

Ownership of copyright in records held by the ACT Government

The ACT Government owns copyright in most of the records held by agencies as they are produced by ACT government agencies. This is known as crown copyright. The ACT Government is not the copyright owner for records that were not made by the government, for example letters written by private individuals to the government, maps & plans drawn by architects or designers not in the employ of the government, or documents provided by other governments. Although such records are the property of the ACT Government, the ACT cannot give permission to reproduce them, as it is not the copyright owner.

Access to the collection

The ACT Government Reference Archivist makes copies of records available to researchers for the purposes of research, a newspaper, magazine or broadcaster for the purpose of reporting the news; and people or organisations using copyright material for the purpose of parody or satire. Any copies of records you receive are provided on the understanding that you use them for research or study or in order to seek permission to publish. In general, you may only proceed to publish or otherwise reproduce a copy of a document received from the ACT Government if:

- you have the permission of the copyright holder; or
- the work (letter, report, photograph etc) is no longer in copyright; or
- the *Copyright Act 1968* permits publication under 'fair dealing' provisions.

A sculpture or craft work on display “otherwise than temporarily” may be photographed, filmed, painted or drawn without infringing copyright. Any resulting photograph, painting, drawing or film may be published without permission of the copyright holder, though an acknowledgement of the creator is required.

The ACT Government archive collection accessible to the public is governed by sections 49, 50 and 51A of the *Copyright Act 1968* relating to works. Provisions relating to “other subject matter” are sections 110A, 110B(1)(a), 110B (2)(a), 110B(2B). These cover research, study or publication of unpublished recordings made more than 50 years ago; and online access or preservation first copies and first records.

Information mainly sourced from the National Archives of Australia
<http://www.naa.gov.au/about-us/publications/fact-sheets/fs08.aspx>

Fair dealing and research

The *Copyright Act 1968* permits some copying without the express permission of the copyright owner. If a copyright use can be characterised as 'fair dealing', the Act provides that it does not infringe copyright. Fair dealing allows you to, for example, reproduce a reasonable portion of a work for research or study, criticism or review, news reporting or professional legal advice.

Responsibilities of researchers

If you wish to reproduce a record held in the collection of the ACT Government, it is your responsibility to determine:

- whether the document, photograph, film or recording you wish to use is still in copyright;
- who owns the copyright ; and
- where and how to contact the copyright owner and obtain the approval required.

If you need permission to publish copies of any records from our collection approach the ACT Reference Archivist for advice in the first instance. You can contact the Reference Archivist by email: archives@act.gov.au We can advise you whether or not copyright in the document is held by the ACT Government.

If the ACT Government does not own the copyright you will need to trace and seek the permission of the copyright owner. If the ACT Government owns copyright in the document, and the document has not been published before, you will need the permission of the ACT Government agency that produced the document or, if the original agency no longer exists, the agency that currently carries out that function.

If the document has already been published by the ACT Government you will need to seek permission from: copyright@act.gov.au

How long does copyright last?

Use the guidance provided below to determine if a work is still in copyright. The ACT Governments' collection includes examples of all categories of records referred to below. Much of the material in the collection (such as files produced by ACT public servants in the course of their employment) comes under the category of 'manuscripts and other originals'. Copyright in this material remains indefinitely, and you will need to seek permission for any copyright not covered by fair dealing.

Extension of period of copyright protection from 1 January 2005

The Act was amended by the *US Fair Trade Agreement Implementation Act 2004* and some timeframes for non Crown copyright material were extended by this.

Except for material in which the Crown holds copyright, from 1 January 2005 the period of protection for material in which copyright subsisted on that date, was extended. The new periods of protection are in the table below. The extended protection does not revive copyright in material in which copyright had already expired before 1 January 2005.

Determining if a work is still in copyright

Use the following table to ascertain:

1. if a work is still in copyright
2. how long the copyright is held by the copyright owner

Territory Records Office•Archives ACT

GPO Box 158 • Canberra ACT 2601 • Telephone (02) 6207 5726 • Facsimile (02) 6207 5835

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Where the Crown owns copyright			
Purpose	Material	Timeframe s180	Provision
Research or study	Published literary, dramatic or musical works	50 years after the end of the year in which the work is first published	s 49
Research or study	Manuscripts and other originals	Copyright as long as the work is unpublished	s 51A
Research or study	Artistic works	50 years from the end of the year when made	s 51
Research or study	Photographs taken before 1 May 1969	50 years from the end of the year when made	
Research or study	Photographs taken after 1 May 1969	50 years from end of year of first publication	
Research or study	Unpublished sound recordings made before 1 May 1969		s 110A
Research	First copies & first records		s110B(1)(a) & 2(a)
Publication	Unpublished works	Copyright as long as the work is unpublished	s 52
The making of a reproduction of the work or by including the work in a film or in a television broadcast.	Sculptures and artistic works otherwise than temporarily, in a public place, or in premises open to the public		s 65
The making of a reproduction of the work or by including the work in a film or in a television broadcast.	Buildings and models		s 66

Information mainly sourced from the National Archives of Australia <http://www.naa.gov.au/about-us/publications/fact-sheets/fs08.aspx> and the Commonwealth Copyright Administration http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_Howlongdoescopyrightlast

Where the Crown does not own copyright

Purpose	Material	Timeframe s33
Research or study	Literary, dramatic or musical works published before the author's death	70 years after the end of the year in which the author dies
Research or study	Literary, dramatic or musical works not published or performed during the author's lifetime	70 years after the end of the year in which first published or performed
Research or study	Unpublished literary, dramatic or musical works	Copyright subsists indefinitely
Research or study	Artistic works	70 years after the end of the year of artist's death
Research or study	Photographs first published anonymously or under a pseudonym	70 years from the end of the year in which the photograph was first published
Research or study	Photographs	70 years from the end of year when first published
Research or study	Television and sound broadcasts	50 years from the making of the broadcast