

Northern Territory Archives Service

Copyright

What is copyright?

Copyright is the right to control reproduction or publication of the form in which the intellectual content of a piece of work or a document is expressed. Copyright is not about the ideas or information contained in the piece of work or document.

Copyright is established automatically when a piece of work or a document is created, and first ownership of that copyright is vested in the creator.

Copyright is a legal entity which exists separately from custody or ownership of the physical item. Copyright may be legally transferred, sold or bequeathed like any other property.

Copyright has to be considered when intending to publish, broadcast or exhibit any existing material whether it is in the form of a manuscript, photograph, work of art or sound recording.

How copyright applies to archives

The archives collections in the custody of the Northern Territory Archives Service (NTAS) fall within the definition of literary works as defined by the Copyright Act 1968. While the Northern Territory Government owns most of the archives collections in the custody of the NTAS, it does not own copyright in all of them. When considering copyright in the archives collections at the NTAS, there are two distinct categories of archival records:

- Government Archives
- Community archives including oral histories

Copyright in government archives

Copyright in all government archives in the custody of the NTAS is owned by the Crown. Virtually all of the government archives in the custody of the NTAS are unpublished. Permission to publish government archives must be obtained from the NTAS which acts on behalf of the Crown. In the case of government archives which are less than thirty years old, permission will normally be sought from the government agency which is responsible for the archives.

Potential publishers of government archives need to consider that the records may include incoming correspondence to government from members of the community. The Government does not hold copyright for these items of correspondence. Copyright belongs with the author of the correspondence.

Copyright in community archives

Nearly all the collections of personal archives and archives of organisations in the custody of the NTAS are owned by the Northern Territory Government. However, copyright in them may not necessarily be owned by the Government. Most of these collections are unpublished.

When private individuals and organisations deposit collections with the NTAS, they are encouraged to transfer their ownership of copyright to the NTAS in order to facilitate efficient management of the collections. In the majority of cases, depositors do transfer ownership of copyright to the NTAS. However, some depositors elect to retain ownership of copyright in the archives which they have deposited. As such they stipulate a requirement that any person must seek their permission if they wish to publish parts of the archives which they have deposited.

Where ownership of copyright in an archives collection has been transferred to the Northern Territory Government, permission to publish from the collection must be sought from the NTAS. Where there is a requirement to seek the permission of the depositor to publish from an archives collection, the staff at the NTAS will assist with this.

Fair dealing

When the NTAS agrees to provide copies of archives in its custody to researchers, it does so in the context of "fair dealing". Fair dealing implies that the copied material will be used for the purpose of research only. Quoting, paraphrasing and summarising archival material does not constitute publishing. When NTAS provides copies of material in this manner, it does not mean that the researcher has permission to publish. A separate authorisation has to be sought for any publishing, broadcasting or exhibiting of archival material.

Examples of copyright rules concerning specific material

Categories	Rule	Note
Manuscripts, non-published material	Copyright stays in place indefinitely	This applies to many items in our archives such as original correspondence and diaries
Oral Histories	Copyright stays in place indefinitely	Oral histories are defined as non-published material
Photographs not published, taken prior to January 1955	Copyright expired in 2005	
Photographs taken after January 1955	Copyright lasts for the life of the author plus 70 years	If a photograph was taken after 1955 and later published copyright duration becomes 70 years after the date of publication

The above is not intended to be a comprehensive guide. For more information please refer to the Copyright Act and the Australian Copyright Council: <http://www.copyright.org.au/>

Contacts

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