



Researchers and Copyright

What is copyright?

Copyright is a type of property, founded on a person's creative skill and labour, and is independent of the custody or ownership of the physical item. Copyright controls the reproduction or publication of the form in which the intellectual content of the work is expressed. It protects the "original expression" of the author's ideas or information, but does not prevent the use of the same idea or information. Copyright exists in works and other subject matter by virtue of the Copyright Act 1968. The act protects original literary, dramatic, musical or artistic works, sound recordings, and radio and television broadcasts and published editions of works.

Government records and copyright

The Commonwealth, State or Territory is the owner of copyright in all work created by or under the direction or control of the Commonwealth, State or Territory. This includes works created by authors who are employed or contracted by the government.

The South Australian Government is the owner of copyright for most of the works held by State records. Under the Copyright Act, the majority of these are considered to be literary works. State Records does not hold copyright for, and cannot provide permission to publish, most of the works in its archival collection, as it does not own the majority of its collection.

However, State Records can:

- help you establish if something is on crown copyright
- tell you what agency you should approach for permission to publish unpublished government records, and
- help you understand your responsibilities under the copyright act.

It is a researcher's responsibility to:

- approach the government department or agency to obtain the necessary permission
- explain your project to the copyright owner, and
- obtain the approval required.

When is a record in copyright?

The period for which records will remain in copyright will vary, depending on the nature of the record. Unpublished material remains in copyright unless published. As a result of the Australia-US Free Trade Agreement, 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 been expired by that date.

Duration of copyright:

- copyright of literary works continues for 70 years after the author's death when published and 70 years after publication when work is unpublished
- where the work was made or first published by a state or territory, then the copyright continues for 50 years after the work was created and indefinitely in cases where the work is unpublished.

As the majority of the work held by State Records is unpublished and likely to remain so, copyright will continue indefinitely. See the table below for details of duration of copyright for different types of work.

Type of work	Publication status	Copyright has expired if...	Protection period – (if work still in copyright on 1 January 2005)	
			Private Copyright	Crown Copyright
Literary, dramatic or musical works	Published	First published or author died before 1 st January 1955	70 years from end of year of authors death	50 years from end of year of first publication
	Published posthumous	First published before 1 st January 1955	70 years from end of year of first publication	N/A
	Unpublished	N/A	Indefinite	Indefinite
Artistic works including maps and plans	N/A	Created before 1 st January 1955 or creator died before 1 st January 1955	70 years from end of year of creator's death	50 years from end of publication
Photographs, maps and plans created before 1 st May 1969	Published	Made before 1 st January 1955	70 years from end of year of creator's death	50 years from end of year in which item was created
	Unpublished	N/A	Indefinite	Indefinite
Photographs, maps and plans created after 1 st May 1969	Published	N/A (Still protected by copyright at 1 st January 2005)	N/A (Still protected by copyright at 1 st January 2005)	50 years from end of year of first publication
	Unpublished	N/A	N/A	Indefinite

For more information on copyright see www.copyright.org.au or refer to the *Copyright Act 1968*