



National Archives

Copyright Guidelines

February 2016

1. Introduction

This document outlines the responsibilities and procedures of the National Archives under copyright legislation.

This document is intended as a general guide for 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, you will need to seek legal advice.

2. What is copyright?

Copyright is an intellectual property right which protects the owner's creative skills and labour. A work subject to copyright can include literary, artistic, dramatic, musical, photographic, film or sound recording. It gives the copyright owner or holder the right to control the use of the work. These rights include the right to copy, publish, reproduce, broadcast or perform the work in public.

As copyright is an intellectual right, ownership is separate to ownership of the physical item.

3. What does copyright protect?

There are a number of different types of copyright work which can be protected. The main categories are:

- Literary works – this is a written work, composed of words, numbers or symbols; literary does not refer to literary merit and can include any written document from a novel to a business letter, report or database;
- Dramatic or musical works – this is a piece of work designed to be performed, e.g. a play or musical composition;
- Artistic works – this includes two-dimensional and three-dimensional works, such as maps, plans, drawings, paintings, photographs, seals or medals;
- Films and photographs – moving and still images, to include photographs, video and DVDs;
- Sound recordings – the recording of sounds, not the work (such as a piece of music) is protected;
- Typographical arrangement – this is the layout of a page, for example, typefaces, images or advertisements on a newspaper page.

4. Who owns copyright in public records?

The Irish State owns copyright in most of the records held by the National Archives. They are official records created by Irish government departments, agencies and offices of state (including the Courts Service), this is referred to as Government copyright.

The majority of records held by the National Archives can be considered as 'literary works' and are therefore covered by copyright. Most government records are considered unpublished and as such copyright will exist in most government records.

Records created by government agencies and officials before 1922 and the foundation of the Irish State, are subject to Crown Copyright. National Archives administers copyright for these records.

National Archives is not the copyright owner for records in our custody that were not made by a government department or agency, for example, letters written by private individuals to a government and kept on a departmental file, or a will transferred by the Probate Office. While these records are the property of the Irish State, the copyright owner is the author. National Archives cannot give permission to reproduce these documents.

5. When may I reproduce a work?

You may reproduce a work if:

- it is out of copyright;
- under the 'fair dealing' provision of copyright legislation;
- obtain permission from the copyright owner;
- cite the work correctly.

6. How long does copyright last?

Once a work exceeds the relevant period of copyright, it may be copied without further action or permission. The work is deemed to be in the public domain. The table at Section 12 sets out the different variations of copyright duration. Please note that photographs and digital images are categorised as artistic works under copyright legislation.

7. What is fair dealing?

Copyright legislation includes provision for the copying of a reasonable portion of a work for private research or study. In order to be fair to the copyright owner, only a small portion of the work (approximately 5%) should be used and commercial interests should not be adversely affected. The fair dealing clause may be used in the following circumstances:

- private study – this is study for personal research only;
- non-commercial research – this is for publications for which there will be no financial gain, e.g. an academic publication;
- criticism or review – this may be for the review of a book;
- a news report – a newspaper may use a quotation in print or on the radio. A photograph may not be used.

8. How may I get permission to publish?

Permission to publish may be obtained by writing to the Head of Reader Services, National Archives.

National Archives may only grant permission to publish copies of works in its custody if they are public records.

National Archives owns copyright in the majority of the records in its custody. However, files may contain documents which are in private copyright.

- National Archives cannot grant permission to reproduce or publish records which are subject to private copyright, e.g. all private records including business, solicitor and hospital collections and collections containing photographs. It also cannot undertake to find the copyright owner on your behalf.
- All permissions to reproduce are administered by the National Archives.
- Before reproduction, permission must be sought from the copyright owner, regardless of the type of publication.

9. How may I get a copy of a work?

Researchers may get a copy of an original work once they have completed a copyright declaration form. National Archives requires that all researchers complete this form before obtaining copies of original documents and photographs.

Please note that the copyright declaration form only covers the making and supplying of the copy. If researchers wish to make further use of the copy, they must obtain permission from the copyright owner.

For information on copying services and charges please see the *National Archives (Fees) Regulation 2012*.

10. What are my responsibilities?

When using records at the National Archives, it is your responsibility to:

- establish if the material you want to use is still in copyright;
- identify the copyright owner;
- contact the copyright owner to get permission to use their work;

11. How does the National Archives help?

National Archives provides assistance by:

- complying with copyright legislation when providing copies of works;
- stating which records are public records and subject to government copyright, such as departmental records;
- helping researchers understand their responsibilities under copyright legislation;
- providing advice on citing original documents correctly.

12. Duration of copyright by type of work

Nature of the work	Duration in Ireland
Published literary, dramatic, musical or artistic work or (from 1 January 2001) original database (SI 158 of 1995 para 3; 2000 s24(1))	Life + 70 years
Unpublished literary, dramatic, musical or artistic work (no express provision)	Apparently perpetual
Anonymous literary, dramatic, musical or artistic work or original database, created on or after 1 January 2001 (2000 ss24(2), 32(2), 33)	Creation + 70 years or publication +70 years if published within 70 years of creation, unless it is reasonable to presume that the author has been dead for at least 70 years
Anonymous literary, dramatic, musical or artistic work created before 1 January 2001 (SI No 158 of 1995 paras 4, 5)	Creation or publication +70 years
Film created on or after 1 January of which the persons connected with the film are known (2000 s25)	Life + 70 years, or publication +70 years if first published within 70 years of the death of the last of the persons connected with the film
Anonymous film created on or after 1 January 2001 (2000 s32(3))	A time when it is reasonable to presume that all persons connected with the film have been dead for at least 70 years
Film created between 1 October 1964 and 31 December 2000 (SI 158 of 1995 para 6)	Life of the last of the persons connected with the film + 70 years
Anonymous film created between 1 October 1964 and 31 December 2001 (express provision)	Uncertain
Film created before 1 October 1964 (2000 Sch 1 para 5)	Treated as a sequence of photographs and as a dramatic work if appropriate
Sound recording (2000 s26)	Creation + 50 years or publication + 50 years if published within 50 years of creation
Broadcast or cable programme (2000 ss27-28)	Broadcast or inclusion within cable programme service + 50 years
Published edition (2000 s29)	Publication + 50 years
Moral rights (2000 s115)	Same term as copyright except right to object to false attribution, life + 20 years
Government copyright (2000 s191)	Creation + 50 years
Bill or enactment, copyright of the Oireachtas (2000 s192)	Publication + 50 years
Oireachtas copyright, any unpublished work, or any published work created on or after 1 January 2001 (2000 s193, Sch 1 para 29(1))	Creation + 50 years

Padfield, Tim, 'Copyright for Archivists and Records Managers' (5th Ed.), p. 284, Facet Publishing, 2015.

13. Bibliography of reference material on copyright

Copyright Act 1911

Industrial and Commercial Property (Protection) Act, 1927

Copyright (Preservation) Act, 1929

Copyright Act, 1963

Copyright (Amendment) Act, 1987

European Communities (Term of Protection of Copyright) Regulations, 1995 (SI No 158/1995)

Copyright and Related Rights Act, 2000

Copyright and Related Rights (Amendment) Act 2004

Padfield, Tim, *'Copyright for Archivists and Records Managers'* (5th Ed.), Facet Publishing, 2015.

For further information on legislation relating to copyright please see

<http://www.irishstatutebook.ie/>

For further information on copyright in Ireland please contact The Copyright Association of Ireland, <http://www.cai.ie/>



COPYRIGHT DECLARATION FORM

COPYING OF PROTECTED MATERIAL BY ARCHIVISTS FOR THE PURPOSE OF RESEARCH AND PRIVATE STUDY

To the Director

Please supply me with a copy of:

Document Reference: _____

Document Title: _____

Required by me for the purposes of research or private study.

I declare that:

- I have not previously been supplied with a copy of the same material by you or any other librarian or archivist;
- I have previously been supplied with a copy of the same material by you or another archivist but that the copy has been lost, stolen, discarded or destroyed.
- I will not use the copy except for research or private study and will not supply a copy of it to any other person; and
- To the best of my knowledge no more than 2 other persons with whom I work or study have made or intend to make, at or about the same time as this request, a request for substantially the same purpose.

I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Name: _____

Readers' Ticket No.: _____

Date: _____



COPYRIGHT DECLARATION FORM

COPYING BY ARCHIVISTS OF CERTAIN MATERIALS WHICH HAVE NOT BEEN LAWFULLY MADE AVAILABLE TO THE PUBLIC

To the Director

Please supply me with a copy of:

Document Reference: _____

Document Title: _____

Required by me for the purposes of research or private study.

I declare that:

- I have not previously been supplied with a copy of the same material by you or any other librarian or archivist;
- I will not use the copy except for research or private study and will not supply a copy of it to any other person; and
- To the best of my knowledge the work had not previously been made available to the public before the work was donated to the National Archives and the copyright owner has not prohibited the copying of the work.

I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Name: _____

Readers' Ticket No.: _____

Date: _____

COPYRIGHT



MAKE SURE YOUR COPYING IS LEGAL

You may take a digital image of any document in copyright for:

- private study or research
- for instruction or teaching
- quoting from a work
- news reporting, except for photographs

When making digital images remember:

- the amount you copy must be 'fair and justifiable'
- you must not reproduce your copy, sell it, or share it online
- you must acknowledge the source where reasonably practical
- you must acknowledge National Archives for the use of the images
- you must cite National Archives' references

Remember:

- infringing copyright is against the law
- it is **your** responsibility to keep within the law