



Government: Commonwealth, State and Territory

This fact sheet outlines the rights and obligations of the Commonwealth Government, state and territory governments, in relation to copyright material. In particular, we discuss sections 183 and 183A of the *Copyright Act 1968* (Cth) (Copyright Act), which allow the Commonwealth, the states and the territories to use copyright material for the services of government.

We also provide information on who to contact if you want permission to use material in which a government owns copyright.

Our [Copyright Essentials](#) book provides in-depth guidance on the provisions of the Copyright Act set out in this fact sheet. It is available for purchase from our website: copyright.org.au. Information about our education programs is available [here](#).

The purpose of this fact sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Key points

- Governments are entitled to rely on very wide-ranging exceptions to copyright infringement, compared to other copyright users.
- Governments become owners of copyright in circumstances where others would not.
- Local governments are not entitled to rely on the special provisions for governments.
- It can be difficult to work out whether a statutory body or government corporation is entitled to rely on the special provisions for governments: specific legal advice may be needed.

1. Who is part of the government for copyright purposes?

The government use provisions apply to government departments of the Commonwealth, the states and territories (the Northern Territory, ACT and Norfolk Island). Agencies and statutory authorities may be part of the Commonwealth, states or territories if the relevant parliament intended them to enjoy the privileges of the Crown as agents or emanations of

the Crown. An agency or statutory authority may need to get legal advice about its status. Local governments or councils are not “government” for copyright purposes.

If you wish to get specific legal advice as to your organisation's status, the questions you would need answered are:

- (i) Is the organisation Commonwealth or state government for the purposes of sections 176 to 178 of the Copyright Act?
- (ii) Is the organisation Commonwealth or state government for the purposes of section 183 of the Copyright Act?
- (iii) In which circumstances is the organisation's use of copyright material "for the services of" the government (section 183)?

These are difficult legal questions, and the answers need to take into account a number of court decisions, including: *Townsville Hospitals Board v Council of the City of Townsville* (1982) 149 CLR 282 and *Re Australian Broadcasting Commission* (1982) 45 ALR 153.

The following departments may be able to advise you whether your agency is covered by the special government use and government ownership provisions in the Copyright Act:

Government	Department
Cth	Australian Government, Attorney-General's Department ; and The Australian Government Solicitor
ACT	ACT Government Solicitor
NSW	Crown Solicitor's Office
NT	Solicitor for the NT
Qld	Crown Solicitor's Office (Qld)
SA	Crown Solicitor's Office (SA)
Tas	Office of the Crown Solicitor
Vic	Victorian Government Solicitor's Office
WA	State Solicitor's Office

2. Government use of copyright material

Governments have greater rights to use copyright material than other users. The Copyright Act provides that the Commonwealth or a state does not infringe copyright by anything done “for the services of the Commonwealth or a State”, section 183(1). This means that governments can use copyright material, including books, periodicals, music, broadcasts and videos, for government purposes. However, this use is generally not free of charge, as the copyright owner is entitled to demand payment.

2.1 What is use “for the services of the Commonwealth or a State”?

The Copyright Act does not provide any guidance on the meaning of “for the services of the Commonwealth or a State”. In interpreting this phrase, one overseas case indicates that it may include services provided by government as well as services used by government.

However, section 183 does not necessarily apply to every use of copyright material by a government. It is possible that only those dealings with copyright material which are “governmental” in nature and where there is some element of public interest involved are likely to be covered by section 183.

Section 183(11) specifically provides that government educational institutions such as schools and TAFEs are not entitled to rely on section 183 to copy or communicate copyright material for educational purposes. It is not clear that any other uses of copyright material by such institutions for educational purposes would be “for the services of” government in the relevant sense. (Note that there are a range of other provisions in the Copyright Act that educational institutions may rely upon. For information about these provisions, see our fact sheet [Education: Copyright Basics](#).)

2.2 How much copyright material can be used?

Governments using copyright material for the services of the Crown are not restricted by any limits on how much they can use. A whole book or video can be copied, even if it could be purchased, and multiple copies can be made, provided any applicable procedures or conditions are followed. However, we understand that generally governments have a policy against copying entire items if they are commercially available.

3. Policies on managing government copyright

A number of governments have administrative policies relating to the management of government-owned copyright. For example, at the Commonwealth level the [Intellectual property principles for Commonwealth entities](#) covers a range of issues regarding ownership, use and management of intellectual property, including copyright. The two key principles with regard to copyright are:

- individual agencies are responsible for their management of intellectual property, including copyright, and
- public sector information should be licensed under a creative commons attribution licence at the minimum.

For more information on creative commons licences, see our fact sheet [Creative Commons Licences](#).

In relation to Commonwealth Government statutory bodies, non-corporate Commonwealth entities are more likely to be considered part of the Commonwealth Government for copyright purposes, while corporate Commonwealth entities and Commonwealth companies are less likely to be considered part of the government. The Department of Finance lists the current status for Commonwealth Government agencies. The Intellectual Property Principles may be considered binding on non-corporate Commonwealth agencies and may be regarded as a statement of best practice for corporate Commonwealth agencies and Commonwealth companies.

For more information on the Australian Government’s policy, see the website of the Attorney-General’s Department [here](#).

4. Administrative requirements and payment

There are two mechanisms in the legislation which allow copyright owners to track government use and receive payment.

The “default” procedure is to notify copyright owners directly of the use of their work and to pay a reasonable fee if required.

Governments are not required to notify copyright owners directly when they make copies for which the Copyright Tribunal has “declared” a company to be the “relevant collecting society”. Currently, the declared collecting societies are Copyright Agency and Screenrights. Under this arrangement, copyright collecting societies can only be appointed to administer reproduction, or copying, of material, and not other uses such as communication to the public and public performance, however collecting societies may make (and have made) voluntary agreements with governments covering other uses of the material they control.

In summary, as a result of collecting societies having been “declared” and as a result of voluntary agreements, you will not need to notify copyright owners when you do the following for the services of government:

- reproduce any literary, dramatic, musical or artistic work (unless it’s a sound recording)
- copy from a radio or television broadcast
- publicly perform music, or
- if your government has negotiated a voluntary arrangement with Copyright Agency, communicate literary, dramatic, musical and artistic works by email or intranet within your department.

In all other cases, unless it would be contrary to the public interest to do so, you will need to notify the copyright owner(s).

5. Collecting society agreements

5.1 Copyright Agency – text & other printed material

Copyright Agency has been declared the collecting society for the reproduction by governments of text, artworks and music (other than material included in sound recordings or films).

Prior to the amendment of the Copyright Act, in 1998, to provide for the appointment of declared collecting societies in relation to government copying Copyright Agency had entered into agreements with the Commonwealth and all states and territories in relation to payment for photocopying and faxing Copyright Agency’s members’ works. Following the amendment of the Copyright Act, governments have been able to reproduce all text, artworks and music without having to notify individual copyright owners – not just works controlled by Copyright Agency’s members. They have also been entitled to digitise, without having to notify individual copyright owners.

We understand that the Commonwealth and all states and territories have reached various agreements with Copyright Agency concerning payment. As part of its agreement with Copyright Agency, the Commonwealth negotiated a limited ability to communicate material within departments without having to notify individual copyright owners. We understand that state and territory governments have negotiated similar extensions with Copyright Agency on this issue.

For more information about the Copyright Agency agreements contact the copyright officer within your department or agency, or [Copyright Agency](#).

5.2 Screenrights – audio-visual content

Screenrights rights is the declared collecting society for the purpose of government copying of audio-visual content from the internet as well as from TV and radio broadcasts. For more information about the Screenrights licence, contact the copyright officer within your department or agency, or [Screenrights](#).

5.3 Australasian Performing Right Association – using music

The Australasian Performing Right Association (APRA) is an association of songwriters and publishers who, on becoming members, transfer performing rights in their works to APRA. Generally, a licence from APRA is required to perform musical works in public – for example, as piped music in lifts and offices, for radios played in workplaces and for concerts by military bands.

Some Commonwealth Government entities, state and territory governments have agreements with APRA in relation to the public performance of music. These agreements may cover various instances of music performance by governments, including playing music for the benefit of staff, but exclude certain special events. Governments pay APRA on the basis of an amount per employee. The agreement applies only to nominated departments and agencies and APRA may offer licences for other uses of musical works (i.e. reproduction and synchronisation).

For more information about government APRA licences (including whether you are covered) contact the copyright officer within your department or agency, or [APRA|AMCOS](#).

OneMusic Australia is an initiative designed to simplify the music licensing process. In the past, licensees seeking to play music in public (e.g. a restaurant owner looking to play music for customers in their dining space) needed to get at least two separate licence agreements, one for use of musical works and one for sound recordings, generally obtained from each of APRA AMCOS and the Phonographic Performance Company of Australia Limited (PPCA) respectively. OneMusic Australia means that such licensees can get a single, bundled OneMusic Australia licence agreement which includes all of the necessary permissions required to play music in public.

OneMusic has a dedicated Council licence scheme to cover the use of music by local councils and at council facilities see <https://onemusic.com.au/licences/government/>.

Note that this scheme does not apply in the Australian Capital Territory, as it does not have local councils.

6. Notifying copyright owners directly

Certain uses of copyright material by governments are not administered by a declared collecting society or covered by an agreement with a collecting society. For example, the reproduction of sound recordings or computer software, the publication of previously unpublished textual material and the communication of copyright material to the general public (e.g. by email or via the internet) may not be covered by an agreement. Where such uses of copyright material are made, and they are not covered under an agreement with the relevant collecting society, the copyright owner must be notified directly.

The Copyright Act provides that governments must notify copyright owners as soon as possible after the use of material, unless it is contrary to public interest. The copyright owner is entitled to receive any reasonably requested information in relation to the use.

The copyright owner is also entitled to stipulate terms for the use of the material, including payment. If the copyright owner and the government cannot agree on the terms, an application can be made to the Copyright Tribunal to determine the matter.

In practice, governments may prefer to notify copyright owners before they use material, particularly as the government may wish to know whether the copyright owner will require payment for the use and, if so, how much.

For information about finding copyright owners, see our fact sheet [Permission: How To Get It](#).

7. Ownership of copyright material by governments

The Commonwealth, a state or a territory owns copyright in material if it is:

- created by, or under the direction or control of, the Commonwealth, a state or territory government or
- first published by, or under the direction or control of, the Commonwealth, state or territory,

unless there is an agreement between the Commonwealth, state or territory and another party, such as a contractor, which provides otherwise.

This means that, unless otherwise agreed, governments own copyright in material created by their employees. It is also likely that, unless otherwise agreed, governments will own copyright in material created by people they commission or contract with and in material created by volunteers under their supervision. It also means that where a government is the first to publish material, for example in a brochure or a report, it will own the copyright in it, unless otherwise agreed, even if that material was created independently of the government.

Government departments have no independent legal status as distinct from the federal or state/territory governments. Copyright is owned by the Commonwealth or the relevant state or territory Crown. If, for example, a document is created under a joint project of two departments of the South Australian Government, the Government of South Australia would own copyright in it.

There are other rules about ownership of material that apply where material is not created or first published by or under the direction or control of a government. For information about the other rules of ownership, see our fact sheet [Ownership of Copyright](#).

8. Agreements concerning ownership

In most cases, it is advisable for governments to make written agreements with commissioned creators of copyright material dealing with the issue of ownership of copyright. Having an agreement should minimise uncertainty about who owns copyright and what the rights of each party are.

Your department or agency may have a policy in place concerning agreements with people who create copyright material for you and may use standard form agreements. It is important, however, to tailor agreements appropriately for each situation you deal with.

9. Dealing with copyright in government material

Copyright owners can assign or license their rights. If a government assigns rights, someone else becomes the owner; if a government licenses rights, it allows another person to use the copyright material.

Assignments and licences can apply to all the copyright owner's rights, or to just one or some of the rights. For example, a government may give someone a licence to publish a document in print form in Australia, but keep all other rights, including the right to publish online. In addition, a copyright owner may restrict an assignment or licence to particular countries, or to a period of time, or both.

An assignment or licence may include certain conditions, such as payment and attribution.

Agreements and transactions relating to copyright should be in writing, as far as possible. Assignments and exclusive licences, to be fully effective, must be in writing and signed by or on behalf of the copyright owner.

A government can give someone a non-exclusive licence to use copyright material simply by putting a notice on the material to that effect. For example, a government could include a notice in its publication stating that the publication may be photocopied for non-profit purposes. Similarly, a government could include a notice on its website stating that the material on it may be printed or downloaded for personal or non-commercial use. Governments are increasingly using creative commons licences to license government material in this way.

As government departments do not have separate legal status, if they manage copyright in materials they create, they do so on behalf of the relevant government. In practice, governments and departments may have policies in place concerning the use of material by other departments in the same government.

10. Administration of government material in practice

It is important for government employees dealing with government copyright material to be familiar with any policies that apply to the use and licensing of that material internally and externally. Standard form agreements may need to be used and legal advice may need to be obtained. Each government deals with its material in slightly different ways.

11. Getting permission to use government material

- **Australian Capital Territory:** Check copyright statements on departmental websites for information on permitted use. For permission, contact Access Canberra, Department of Territory and Municipal Services, GPO Box 158, Canberra ACT 2601, email copyright@act.gov.au.
- **Commonwealth:** For general information about the administration of Commonwealth government material go to: <https://www.ag.gov.au/rights-and-protections/copyright>. Check copyright statements on departmental websites for information on permitted use. For permission, contact the agency who produced the material. The australia.gov.au website provide links to the websites of each Commonwealth Government Agency.
- **New South Wales:** No permission is needed to reproduce NSW legislation or court judgments. Check copyright statements on departmental websites for information on

permitted use of other material. For permission, contact the department that produced the material. The nsw.gov.au website provides links to the websites of each department, and some have specific processes for obtaining copyright permission. For example, the Department of Communities & Justice provides the contact details to their legal department: GPO Box 6, Sydney NSW 2001, email: enquiries.generalcounsel@justice.nsw.gov.au.

- **Northern Territory:** No permission is needed to reproduce NT legislation. Check copyright statements on departmental websites for information on permitted use of other material. For permission, contact the Office of the Information Commissioner: infocomm@nt.gov.au, or see www.infocomm.nt.gov.au.
- **Queensland:** Queensland legislation is available to reproduce under a Creative Commons attribution licence: see www.legislation.qld.gov.au/copyright. Check copyright statements on departmental websites for information on permitted use of other material. For permission, contact the Office of the Queensland Parliamentary Counsel via e-mail, at copyright@oqpc.qld.gov.au.
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- **Victoria:** For permission to reproduce Victorian legislation or judgments contact Office of Chief Parliamentary Counsel by email: ocpc@vic.gov.au. Check copyright statements on departmental websites for information on permitted use of other material. For permission, contact: IPpolicy@dtf.vic.gov.au.
- **Western Australia:** Check copyright statements on departmental websites for information on permitted use of WA government material. For permission, submit an enquiry via the government's website: www.wa.gov.au/copyright.

Frequently Asked Questions (FAQs)

Can a government put text and graphics from a journal article onto a website?

Yes, if it is for the purposes of the government. It is likely that this use will involve both reproduction and communication of the material. The reproduction of the text and graphics will be covered by the declaration of Copyright Agency as the collecting society for government copies and the communication may be covered by a voluntary agreement. If not, it will be necessary to notify each relevant copyright owner in relation to the communication and they may require remuneration.

Can a government department make multiple copies of an article to hand out to its staff?

Yes, if the copying is for the services of government. Copying any type of text is covered by the declared collecting society, Copyright Agency. Therefore, you will not need to notify the copyright owner directly. Records may need to be kept if your department or agency is

participating in a sample survey conducted by Copyright Agency to determine the extent and nature of copying.

Who owns copyright in a report commissioned by government?

The contract between the government and the person commissioned to write the report may state which party owns the copyright. If the agreement does not deal with ownership, the government will own the copyright on the basis that the report was written under the direction or control of, or first published by, the government.

What copyright information should a government department put on its website?

You should first check whether your government has a policy about the wording of copyright notices on government material.

Just as book publishers put copyright notices on their books, people who publish on the web normally have a statement about copyright on their websites. There could be an easily recognisable link to it from each page on the site. There are no special rules about how the statement should be worded, but (unless your government has a statement it requires you to use) it is a good idea for the statement to include the following:

- the copyright symbol (©) and the name, or names, of the copyright owner(s) of material on the site (this will generally be the name of the relevant government)
- the year of first publication (for websites, often in the form 2020-2025, to indicate that the material has been updated over a period of time)
- information about what visitors to the site may or may not do with material on the site (for example a statement giving visitors permission to print material for personal use, or to distribute it for a non-commercial purpose), and
- contact details (preferably including an email address) to get a copyright clearance for any of the material on the site.

Who owns copyright in material that was funded by a government department?

Generally, the issue of copyright ownership is addressed in the funding agreement.

If there is no specific statement on this point in the agreement between the government and the creator, the answer depends on whether the provision of funding amounts to the government “directing or controlling” the creation of the material. This, in turn, depends on how the funding is provided. One-off grants to incorporated bodies or communities to assist with things such as the setting up of exhibitions and the showing of films, or grants which are part of ongoing support for an organisation's general purposes, are unlikely to constitute control or direction. Where the funding is project-specific, with a greater degree of departmental involvement in the design of the project and its administration, and where further funding depends on satisfactory progress of the project, the government is more likely to own copyright.

Further information and advice

We also have a range of other fact sheets on several topics and publish books that focus on specific interest groups. Check our website for information about our publications [here](#) and details of our seminar/webinar program [here](#).

We can provide this fact sheet in an accessible format or in hard copy on request.

An Australian Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in a fact sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see Legal Advice on our website copyright.org.au.

Reproducing this fact sheet

Our fact sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this fact sheet for any purpose other than your reference, please contact us for assistance.

About us

The Australian Copyright Council is an independent, not-for-profit, non-government organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies. Our objectives include:

- to assist creators and other copyright owners to exercise their rights effectively
- to raise awareness in the community about the importance of copyright
- to identify and research areas of copyright law which are inadequate or unfair
- to seek changes to law and practice to enhance the effectiveness and fairness of copyright
- to foster co-operation amongst bodies representing creators and owners of copyright.

The Australian Copyright Council respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to the elders and to all First Nations elders: past, present and emerging. This always was and always will be Aboriginal land.



The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.

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