

Your guide to NZ Copyright



Let's do the right thing

Copyright and Public Administration

Introduction

The Copyright Act 1994 gives copyright owners a number of exclusive property rights in relation to certain works (such as books, journal articles, scripts, music, paintings, photographs or films). There are a number of provisions in the Copyright Act relating to the use of copyright material by the Crown or others, for public administration purposes.

For more information on copyright generally, see our information sheet *An introduction to copyright in New Zealand*.

What is the Crown?

The “Crown”, for the purposes of the Copyright Act, means “Her Majesty the Queen in right of New Zealand” and includes:

- Ministers of the Crown;
- Government departments; and
- Offices of Parliament (the Parliamentary Commissioner for the Environment (and that Commissioner’s Office), the Office of Ombudsman, the Audit Office (including the Audit Department), and the Parliamentary Counsel Office).

The following entities are *not* part of the Crown:

- Crown entities (within the meaning of section 7(1) of the Crown Entities Act 2004, for example, district health boards, Crown Research Institutes, school boards of trustees, tertiary education institutions); and
- State enterprises listed in the First Schedule to the State-Owned Enterprises Act 1986.

Local governments or authorities are also not part of the Crown for copyright purposes.

We suggest you seek legal advice if you are in any doubt as to an organisation’s legal status for the purpose of the Crown-related provisions in the Copyright Act.

Use of copyright material for public administration

The specific exemptions from copyright infringement for public administration purposes are listed below:

Copyright Licensing Limited
L4, 19-21 Como St, PO Box 331488,
Takapuna, Auckland 0740, NZ
T +64 9 486 6250
Freephone: 0800 480 271
E info@copyright.co.nz
www.copyright.co.nz

Use of copyright material for services of the Crown

Anything done in relation to copyright material by the Crown, or by any person with written authorisation from a Government department, does not infringe copyright if it is done:

- for the purpose of national security;
- during a period of emergency; or
- in the interests of health or safety of the public or any members of the public.

However, the Crown must pay the copyright owner (and any licensee in relation to the copyright material), equitable remuneration on agreed terms. If the terms of payment cannot be agreed upon, they must be determined by the Copyright Tribunal. See below under heading "Copyright Tribunal".

No licence or assignment agreement between the copyright owner and another person can prevent Crown use under this provision unless the agreement is between the copyright owner and a Government department.

Material communicated to the Crown in course of public business

In certain cases, the Crown may copy and issue to the public copies of a literary, dramatic, musical, or artistic work without infringing copyright in the work.

This provision applies if the work was communicated to the Crown for any purpose by or with the consent of the copyright owner, during public business. "Public business" includes any activity carried on by the Crown.

The copy must be made, or copies issued for the purpose for which the work was communicated to the Crown or for a related purpose reasonably anticipated by the copyright owner. This provision applies unless there is agreement to the contrary.

Copying by Parliamentary Library for members of Parliament

The Parliamentary Library can provide members of Parliament with copies of literary and dramatic works (including any artistic works contained in them), recordings of broadcasts or cable programmes, or transcripts of such recordings, without infringing copyright. Only one copy, recording or transcript can be supplied at the same time and the MP must need it for the purpose of performing his or her duties as an MP.

Other "public use" exemptions

Copyright is not infringed by:

- anything done for the purpose of **parliamentary or judicial proceedings**, or reporting such proceedings;
- anything done under **statutory authority**, for example, the making and supply of copies of documents under the Official Information Act 1982;
- anything done for the purposes of a **Royal commission, commission of inquiry, ministerial or statutory inquiry** or for the reporting of such. The issue to the public of copies of such reports containing copyright material does not infringe copyright;
- copying **material that is open to public inspection**, provided there is permission from the person who made the material available or who maintains the relevant register. The copying must not be for the purpose of issuing copies to the public, except:
 - if it is to enable material to be inspected at a more convenient time or place; or
 - where it contains information of general scientific, technical, commercial or economic interest, for the purpose of disseminating the information.

Ownership of copyright material by the Crown

The Crown is the first owner of any copyright in original works created by Crown employees, contractors, or apprentices, unless there is agreement to the contrary. This copyright is often referred to as “Crown copyright”.

Such works remain “Crown copyright” even if copyright is transferred to another person.

How long does Crown copyright last?

Copyright protection for most material covered by Crown copyright lasts for 100 years from the end of the year in which the work was made. This is much longer than the standard term of copyright protection for other works, which is the life of the author plus fifty years from the end of the year in which the author dies.

Crown copyright in typographical arrangements of published editions (“Publisher’s copyright”) lasts for 25 years from the end of the year in which the work was made.

Documents not protected by copyright

Under the Copyright Act, a few types of “public” documents do not have copyright protection. These are:

- Parliamentary bills, Acts and regulations;
- Bylaws;
- Parliamentary debates;
- Select Committee reports;
- Court and tribunal judgements; and
- Reports of Royal commissions, commissions of inquiry, ministerial or statutory inquiries.

Open access in government

Under NZ GOAL, a substantial array of material produced by government is open access. Further information on NZ GOAL is available here: <https://www.data.govt.nz/manage-data/policies/nzgoal/>

Getting permission to use Crown copyright

Anyone who wants to copy or use someone else’s copyright in a restricted way, generally needs permission. There are no general exemptions for use of Crown copyright.

Often the material can be used in accordance with a copyright notice on the relevant material or website on which the material appears. For example, the New Zealand Government website <http://newzealand.govt.nz> states:

Material featured on this web site is subject to Crown copyright protection or is licensed to the Crown. This material may be used, copied and re-distributed free of charge in any format or media. Where the material is used, the source and copyright status must be acknowledged (eg © Crown copyright).

Moral rights

Individual creators have certain “moral rights” which give them:

- the right to be identified as the author of the work, or director in the case of a film (right of attribution);
- the right to object to derogatory treatment of the work (right of integrity); and
- the right to not have a work falsely attributed to them.

Moral rights remain with the creator, even if copyright is owned by another person.

The rights of attribution and integrity are qualified where a work is subject to Crown copyright. Also, the right of attribution does not apply in some “public administration” situations and the right of integrity is qualified where something is done to comply with a statutory duty.

For more information, see our information sheet *Moral rights*.

Copyright Tribunal

The Copyright Tribunal is a statutory body established under the Copyright Act. It deals with disputes about licences allowing the copying, performing, and broadcasting of works. Some proposed or operative schemes for licensing can be referred by interested parties. For more information, see the Ministry of Justice website <http://www.courts.govt.nz/tribunals/>.

Copyright Licensing New Zealand does not provide legal advice, only general information on copyright issues. If you require expert or legal advice on copyright, you should seek the services of a legal professional. For more information please [contact us](#)