



Custom Copying Guidelines for Staff ¹

In General

- Only one copy of any item may be made.
- Patrons must state the purpose of the request before the copy is made. Copies will not be made for any purpose other than research, private study or submission to a court or tribunal.
- Copies must be stamped with the notice, “This copy to be used solely for the purposes of research, private study or submission to a court or tribunal and any use of the copy for other purposes may require the authorization of the copyright owner of the work in question.”

Case Law

The library may:

- copy an entire decision from a law report volume.
- refer requests for more than one case from the same volume to a reference librarian. Such requests are infrequent in practice. When they do arise, a parallel citation from an alternate series can often be substituted.

Digests

Follow the guidelines for Case Law above

Legislation

The library may:

- copy complete statute, bill or regulation.
- The library may copy more than one statute or regulation from the same volume.
- Both the federal and the Ontario government permit the copying of their respective legislation without payment and without obtaining prior permission.

Exception

Annotated statutes or regulations such as Martin’s *Criminal Code* or the *Annotated Canada Business Corporations Act* are not treated as statutes. This type of publication is considered to be “textbook” material; see the restrictions set out below.

Periodical Articles/Serials

The library may:

- copy an entire article from a law journal, review or newsletter.
- refer requests for more than one article from the same volume to the reference librarian.

¹ This document has been created by the Great Library at the Law Society of Upper Canada in light of the recent copyright decision *CCH Canadian Ltd. v. Law Society of Upper Canada*, [2004] 1 S.C.R. 339, 2004 SCC 13 ; <http://www.canlii.org/ca/cas/scc/2004/2004scc13.html>. This document has been vetted by legal counsel and endorsed by LibraryCo for use in County and District Law Libraries in Ontario. These *Custom Copying Guidelines* do not replace or change the *Access to the Law Policy* statement, but rather are meant to be a companion document to assist library staff put the Supreme Court of Canada approved *Access to the Law Policy* into everyday practice. The two documents should always be read together.

Textbooks

According to the *Access to the Law Policy*, the maximum that may be copied is 5% of a textbook. But requests for 5% of a textbook are not automatically approved, and, in practice, many textbook requests are declined. The textbook category includes materials such as forms and precedents, dictionaries, words and phrases, annotated legislation and CLE publications (other than the LSUC).

All requests for textbook materials must be approved by a reference librarian in writing. In approving requests, the reference librarian should consider such factors as:

- the date of the publication
- whether the work is still in print and available
- whether 5% represents a disproportionate amount of original material from the book. For example, the book may be 500 pages in length, but contain only 200 pages of original commentary with 300 pages of reprinted statutes

An entire chapter may be copied if it falls into the above guidelines and does not exceed 5%.

Law Society of Upper Canada CLE publications may be copied in full by staff in the Great Library and the County and District Law Libraries if they are no longer available for sale. However, in odd cases the authors of CLE publications may have retained the copyright. This would be indicated in the publication. In such cases, the general rule for textbooks would apply. One chapter or 5% may be copied if the publication is still in print.

Government Reports

Publications such as Law Reform Commission reports, departmental studies and inquiries by the federal or Ontario government may enjoy crown copyright. Copying up to 5% of these publications is permitted under our guidelines. However, since some of these publications go out of print very quickly and are unavailable for purchase when needed, copying more than 5% may be necessary in rare cases as approved by the reference librarian. Occasionally, the report itself may contain a statement granting permission to freely copy the work for discussion or other purposes.

Works with Expired Copyright

In Canada, under the *Copyright Act*, copyright generally extends 50 years after the death of the author. After this time period works fall into the public domain and may be freely copied.

If all efforts to determine the date of death of the author have been unsuccessful, one suggestion for estimating a reasonably “safe” date at which to assume copyright has expired is to use the date that represents 90 years from the date of creation of the work. This formula assumes that the author was 40 years old when the work was created and lived to be 80 years of age.

Under our system of copyright the operative law is that of the country in which the copying activity takes place. Therefore in Canada, Canadian law would apply when working with publications from other countries such as the United States.

Reprints

When a publication is reprinted from a work in the public domain (that is, where copyright has expired), no new copyright term comes into existence for the new work. If a foreword or other new material is added, these parts may be subject to a new term of copyright. However, so long as the remainder of the reprinted publication has been compiled in the same way as the original publication and contains no new literary or artistic expression over and above the original publication, the reprinted material itself may be freely copied as being a work in which copyright has expired.

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Summer, 2004