

County and District Law Libraries and the Great Library: *Principles and Standards for Document Delivery*



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County and District Law Libraries: Principles and Standards for Document Delivery

I. Scope

The purpose of this *General Agreement* is to outline policies and procedures within County and District Law Libraries for the library-to-library loaning of returnables and for the sharing of non-returnable items.

The terms of this *General Agreement*:

- do not preclude County and District Law Libraries participation in other resource sharing opportunities;
- do not provide for rush requests. Such arrangements concerning rush requests should be made between individual libraries.

II. Fundamental Principles

Membership in the County and District Law Library System has many benefits, including a higher level of service within the system. The following principles are fundamental to this high quality service standard for document delivery.

Each County and District Law Library:

- will provide service to the lawyers of Ontario
- will respect internal policies of the individual libraries
- will respect and adhere to requirements by law concerning copyright (see Appendix E and F)
- will respect other individual licensing agreements which may exist outside of this agreement
- will process requests as soon as possible but no longer than three working days
- will not charge fees to other County and District Law Libraries
- will keep Document Delivery statistics

III. Definitions

The definitions given are specific to County and District Law Libraries and to this document.

- **Advocat** is the electronic union catalogue of holdings of the Great Library of the Law Society of Upper Canada and the County and District Law Libraries.
- **Document delivery** refers to library-to-library transactions of both returnables and nonreturnables within County and District Law Libraries and with the Great Library, and the physical movement / delivery of materials from library to library.
- **Electronic delivery** refers to Email or Fax delivery of requested materials.
- **Member libraries** refers to the County and District Courthouse Law Libraries in Ontario which are funded through LibraryCo Inc. and the Great Library of the Law Society of Upper Canada
- **Non-returnables** are items that normally do not need to be returned to the owning library (i.e., print or electronic copies and/or copies made in lieu of loans).
- **Owning Library** is the library possessing the item(s).
- Primary borrower/client is a member in good standing of the Law Society of Upper Canada.
- **Returnables** include any items that are normally to be returned to the owning library. (i.e., bound volumes, treatises, texts etc).
- **Requesting Library** is the library asking for an item(s)
- **Statistics** include the number of document delivery transactions (filled requests for returnables and non-returnables) [see Appendix D].
- **Turnaround time** is the length of time from the receipt of the request at the owning library to its dispatch to the requesting library (i.e. as soon as possible but no longer than three working days).

IV. Procedures for Document Delivery

Requesting Library

It is the responsibility of the requesting library to verify information on Advocat before forwarding a request to another member Library. Ideally, verifying includes: author, title, year, and call number (where used) for texts and journal title, volume, issue, year, author of article, title of article, pagination, call number (where used) for serials and/or periodicals.

Requests may be transmitted via electronic mail, Fax, or other agreed upon methods except Canada Post. Libraries must consult the LibraryCo homepage at: <http://www.libraryco.ca> for each library's preferred method of request. The requesting library is responsible for returnables acquired on behalf of its lawyers, including reimbursement for lost materials.

The requesting library will honour due dates. The loan period for the lawyer is two weeks. Renewals are at the discretion of the owning library.

A library may submit a request to another library if its copy is unavailable.

If a number of libraries own the needed materials, it is at the requesting library's discretion from which library it will request.

• ii. Owing Library

Turnaround time is as soon as possible but no longer than three working days.

If the request cannot be filled, the owning library must send an explanation as soon as possible but no longer than three working days. The explanation may include: lost, missing, at the bindery, non-circulating item, on loan and due date, not on shelf, not owned, in violation of licencing agreements etc.

The loan period for the lawyer is two weeks. Renewals are at the discretion of the owning library.

Materials must be accompanied by a copy of the request. (see Appendix B and C)

The delivery method used is based on the type of material being shipped (returnables or non-returnable) and the availability of delivery services. Currently acceptable methods of delivery are email, fax or commercial courier.

Statistics must be kept [see Appendix D]

V. Forms

Forms to facilitate borrowing and lending have been devised for use of all law libraries. The *Document Delivery – Borrowing Law Library* form can be found at Appendix B. The *Document Delivery – Lending Law Library Form* can be found at Appendix C.

VI. Statistics

To identify document delivery traffic between individual County and District Law Libraries, statistics must be kept. These statistics shall be recorded and on a quarterly basis (January – March, April–June, July–September, and October - December) and submitted no later than one month after the end of the quarter to LibraryCo. [see Appendix D]

VII. Fees

County and District Law Libraries and the Great Library of the Law Society of Upper Canada will not charge fees to one another.



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Appendix B



Document Delivery – Borrowing Law Library

Date of Request:

Author: _____

Title: _____

Year / Edition: _____ **Call Number:** _____

Borrowing Law Library / Ship to address:

Contact Name: _____ **Contacted by:** _____

Phone: _____

Fax: _____

Email: _____

Date item received: _____ **Date item due:** _____

Date item picked up /Consulted in law library: _____

By: _____

Date item returned to lending law library: _____

Return method (mail, courier, etc.): _____

Notes / Comments:

Appendix C



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Document Delivery – Lending Law Library

Date of Request:

Author: _____

Title: _____

Year / Edition: _____ **Call Number:** _____

Lending Law Library / Return to address:

Contact Name: _____ **Contacted by:** _____

Phone: _____

Fax: _____

Email: _____

Date item sent: _____ **Date item due back:** _____

Return method (mail, courier etc): _____

Cost: _____

or

Item not sent because:

Notes / Comments:

Appendix D **Reporting Library:** _____ **Quarter ending:** _____

County and District Law Libraries	Lending ¹		Borrowing ²	
	Returnables	Non-Returnables	Returnables	Non-Returnables
Algoma				
Brant				
Bruce				
Carleton				
Cochrane				
Dufferin				
Durham				
Elgin				
Essex				
Frontenac				
Grey				
Haldimand				
Halton				
Hamilton				
Hastings				
Huron				
Kenora				
Kent				
Lambton				
Lanark				
Leeds & Grenville				
Lennox & Addington				
Lincoln				
Manitoulin				
Middlesex				
Muskoka				
Nipissing				
Norfolk				
Northumberland				
Oxford				
Parry Sound				
Peel				
Perth				
Peterborough				
Prescott & Russell				
Rainy River				
Renfrew				
Simcoe				
Stormont				
Sudbury				
Temiskaming				
Thunder Bay				
Toronto				
Victoria Haliburton				
Waterloo				
Welland				
Wellington				
York				
Great Library				

¹ Items your law library is supplying to another County and District Law Library or the Great Library.

² Items your law library is receiving from another County and District Law Library or the Great Library.

Appendix E



Access to the Law Policy ⁱ

The Law Society of Upper Canada, with the assistance of the resources of the Great Library, supports the administration of justice and the rule of law in the Province of Ontario. The Great Library's comprehensive catalogue of primary and secondary legal sources, in print and electronic media, is open to lawyers, articling students, the judiciary and other authorized researchers. Single copies of library materials, required for the purposes of research, review, private study and criticism, as well as use in court, tribunal, and government proceedings, may be provided to users of the Great Library.

This service supports users of the Great Library who require access to legal materials while respecting the copyright of the publishers of such materials, in keeping with the fair dealing provisions in Sections 29 and 29.1 of the Copyright Act.

Guidelines to Access

1. The *Access to the Law* service provides single copies for specific purposes, identified in advance to library staff.
2. The specific purposes are research, review, private study and criticism, as well as use in court, tribunal, and government proceedings. Any doubt concerning the legitimacy of the request for these purposes will be referred to the Reference Librarian.
3. The individual must identify him/herself and the purpose at the time of making the request. A request form will be completed by library staff, based on information provided by the requesting party.
4. As to the amount of copying, discretion must be used. No copies will be made for any purpose other than that specifically set out on the request form. Ordinarily, requests for a copy of one case, one article or one statutory reference will be satisfied as a matter of routine. Requests for substantial copying from secondary sources (e.g. in excess of 5% of the volume or more than two citations from one volume) will be referred to the Reference Librarian and may ultimately be refused.
5. This service is provided on a not for profit basis. The fee charged for this service is intended to cover the costs of the Law Society.

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Appendix F



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

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

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.

- 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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ⁱ 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. This *Access to the Law Policy* is meant to be used in conjunction with the *Custom Copying Guidelines*. The *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.