

Information Bulletin #3
Copyright for Archivists
Canadian Council of Archives Copyright Committee

Copying unpublished material

If copying is not fair dealing in the particular circumstances of an archival use, then a specific exception may be available to permit copying of an **unpublished** work in an archives. "Publication" is described in the *Copyright Act* as "making copies of a work available to the public." The term "public," although not defined in the *Copyright Act*, refers to people outside of a restricted group like a family or a business.

The legislation that merged the National Library and the National Archives in 2004 amended the exception permitting an archives to make a single copy of an unpublished work in its holdings for a patron's research and private study by removing the requirements of trying to locate the copyright owner before making the copy and keeping records of the copying.

However, it is still necessary to inform the donor at the time of deposit that the material may be copied for research and private study purposes. Suggested wording to inform the donor is:

The *Copyright Act* [Section 30.21(3) (a) and (b)] requires that donors be informed at the time material is deposited in an archives that a single copy of the material being deposited may be made for a patron's research and private study. A single copy will be made if the donor is the copyright owner and does not prohibit the copying at the time the work is deposited, and if copying has not been prohibited by any other owner of copyright in the work.

It is also necessary to inform archival patrons at the time of registration, and by means of a stamp or other mark on a copy given to patrons, that the copy is for research or private study only, and that any further use may require the authorization of the copyright owner. Suggested wording to inform the patron is:

This copy may be used only for the purposes of research and private study. Any use of the copy

for a purpose other than research or private study may require the authorization of the copyright owner. Responsibility regarding questions of copyright that arise in the use of this copy is assumed by the recipient.