

This factsheet can help you to determine whether copyright subsists in public sector material which your agency is assessing for applying a Creative Commons (CC) licence.

This factsheet should be used in conjunction with our guide:

Fitzgerald, Anne M. and Hooper, Neale and Foong, Cheryl (2010) *Using Creative Commons 3.0 Australia licences on Government Copyright Materials* <http://eprints.qut.edu.au/38364/> (see in particular, the 'Checklist for applying a Creative Commons licence to government material').

## 1. Identify the material (metadata record)

Type of material (e.g. text, image):	
Title of material:	
Format (e.g. PDF):	
Where is the material located?	
From which government agency did the material originate?	
For enquiries regarding the material, contact:	
Date created:	
Other relevant information:	

## 2. Is the material in one of the categories to which copyright can apply?

Is it:

- a written/text document (e.g. report)?
- a table?
- a map?
- a photograph?
- a visual image?
- a sound file?
- a film or video?
- a multimedia work?
- data compilation, dataset or database?<sup>1</sup>

If YES to any of the boxes above, the material is in a category to which copyright applies.

Go to [Question 3](#).

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<sup>1</sup> Copyright protection applies to a data compilation, dataset or database provided it meets the originality threshold required by law.

### 3. When was the material created/compiled?

- Less than 50 years ago

For government material, if YES - Crown copyright is likely to apply (Go to [Question 4](#)).

For non-government material, if YES - copyright is likely to apply (Go to [Question 4](#)).

- More than 50 years but less than 70 years ago

For government material, if YES — Crown copyright will have elapsed and the work is in the public domain (copyright no longer applies).



Where the material is in the public domain, you may apply a Creative Commons Public Domain Mark <http://creativecommons.org/choose/mark> to certify that the material is already in the public domain.

Check the date the work was made or first published. Crown copyright expires 50 years after the work is made or first published. BUT if the work has not yet been published, copyright continues and the copyright term begins to run from the time the work is published.

For non-government material, if YES — copyright is likely to apply. (Go to [Question 4](#))

- More than 70 years ago

For government material, if YES — Crown copyright does not apply, as the copyright term has elapsed. BUT if the work has not yet been published, copyright continues and the copyright term begins to run from the time the work is published.

For non-government material, if you answered YES — copyright may apply, or the copyright term may have elapsed. You need to discover when exactly the material was created.



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## 4. Was it created/compiled in Australia?

- Yes — copyright protection under Australian law is likely to apply.
  
- No — If the work was created in a country that is a member of the Berne Convention<sup>1</sup> or the World Trade Organization,<sup>2</sup> copyright will usually be protected under Australian law.

For more information about the CC licences, see <http://creativecommons.org.au/licences>.  
For more information about Creative Commons and Government in Australia, see <http://creativecommons.org.au/sectors/government>.

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1 See <http://www.wipo.int/treaties/en/ip/berne/index.html>

2 See [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)