

A NOTE ABOUT COPYRIGHT

by Mark Donato

The following information is intended as a guide to assist readers who may use Copyright material, it is not comprehensive. The intention of Copyright is to reward and protect authors and creators. For more information about Copyright contact: Australian Copyright Council, Suite 3, 245 Chalmers Stret, Redfern NSW 2016. Telephone 008 266 103.

Of particular relevance to members of the Italian Historical Society is the use of the Birth, Death and Marriage records. The following letter from the 'Department of Justice, Victoria Registry of Births, Deaths and Marriages' was published in *ANCESTOR Quartely Journal of the Genealogical Society of Victoria, Vol 22, No 7*. Since many of our members are involved in genealogical searches, we reproduce it here with their kind permission.

Dear Editor:

Copyright of Registry Records - Possible infringements of COPYRIGHT which have recently been brought to the attention of the Registry.

For clarification of this issue please note the following paragraphs which you may also wish to bring to the attention of your readers.

CERTIFICATES

Since the advent of multi-entry certificates produced from microfilm of the original registers, many genealogical societies have established holdings of 'unrelated certificates'.

These certificates are indexed and information supplied to enquirers upon payment of a nominal fee.

The Registry does not object to the collection and indexing of such 'unrelated certificates' as a reference source for members who may take notes from the collection.

Copyright to the information contained in the certificates is however vested in the Crown, and to photocopy the certificates for sale is a breach of copyright.

There is also no objection to the use of pre-printed forms for the purpose of providing handwritten or typed transcripts to members seeking information from the collection.

Where researchers wish to publish a facsimile of a birth, death or marriage entry in any family history publication, permission to publish is required from the Registry.

Permission will readily be granted if the publication is to be sold at a price which constitutes no more than a reasonable cost recovery.

If the print-run of a publication and its pricing structure is such that a profit is expected to be made, then a commercial agreement with the Registry needs to be negotiated.

BIRTH DEATH AND MARRIAGE INDEXES:

The indexes to births, deaths and marriages are compilations and are protected as literary works under the Copyright Act 1968. The Act provides in s.38.(1) that Copyright is infringed by a person who without licence of the owner of the Copyright sells, lets for hire, or offers or exposes for sale or hire, an article which the person knew, or ought to have known, was subject to Copyright.

Individuals or organisations who are offering for hire the Victorian Pioneers Index (microfiche or CD-ROM), or other birth, death and marriage microfiche indexes, are thus infringing copyright and could be subject to legal proceedings.

Indexes, whether in microfiche or CD-ROM format, are sold to established lenders such as libraries and Genealogical Societies for the express use of their members on a non-profit basis.

If any fee is charged for use of the indexes by members or non-members, such as a fee should be cost recovery only and not for any profit making purpose.

Yours sincerely

*Andrew Levens, General Manager,
Registry of Birth, Deaths and Marriages.*

To summarise, in essence the Registry allows birth, death and marriage information to be typed or handwritten but a photocopy of the record for sale is a breach of Copyright. Similarly the creation of a facsimile of a birth, death, marriage record for publication requires permission from the Registry. Permission will readily be granted if the price of the publication is such that it covers costs and the purpose of publication is not for profit.