



**COUNCIL OF AUSTRALASIAN ARCHIVES
AND RECORDS AUTHORITIES**

CAARA Policy 02

Recovery of Estrays

Status: Current

Adopted: 28 October 1996

Revised: February 2008

Updated: May 2018

CAARA acknowledges the traditional custodians of Country and their continuing connection to land, sea and community.

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OFFICIAL

Recovery of Estrays

Updated: May 2018

Application

This statement does not apply to Archives New Zealand.

Introduction

Governments in Australia have legislation dealing with the ownership of their public records, stipulating that those records are the property of the government that created them.

Nonetheless, public records occasionally stray from official custody, either deliberately or by mischance. Such records are referred to as estrays. But even when this occurred many years ago, ownership of the records still remains with the government.

The Council of Australasian Archives and Records Authorities which represents all such archives in Australia has acted for many years to prevent, as far as possible, any subsequent trading in estrays so that the records may be preserved appropriately and made accessible to the community in accordance with relevant legislation. It has now adopted an updated Statement of Intent on the return of estrays into archival custody.

The Statement has been widely circulated to dealers in original records and collectibles, other archives, libraries and other collecting institutions in order to discourage all public trading in official records.

The Statement

1. The members of CAARA are committed to the return of estrays to the appropriate archival custody.
2. In fulfilling that commitment, members will seek to record the existence, location and condition of estrays with the intention of ensuring their preservation and their accessibility to the community.

3. Members have agreed to cooperate with each other in the recovery of estrays where records have moved interstate, specifically
 - to identify and inspect records suspected of being estrays;
 - to act on behalf of another member to acquire records identified as being estrays;
 - to act to discourage the development of a public trading market in estrays;
 - to support the application to estrays of the Protection of Movable Cultural Heritage Act 1986 and regulations to ensure they remain within Australia and
 - where appropriate, to pursue reciprocal arrangements between the member states in legal action to recover estrays.
4. In the light of CAARA's commitment, dealers in original records should be aware of their obligation to make known to the appropriate archival institution the existence of an archival estray. They should also note that trading in documentary heritage in such a way that it would leave Australia without the requisite permit under the Protection of Movable Cultural Heritage Act 1986 constitutes a breach of that Act that may lead to prosecution.
5. When government records are identified as estrays, CAARA members will seek their return to government custody. While compensation payment for the recovery of government estrays is not generally supported, CAARA members may give consideration to such if appropriate, in accordance with legislation in their respective jurisdictions.

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