

COPYRIGHT AGENCY LIMITED®

# Introduction to CAL and Copyright

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## More information

Copyright Agency Limited  
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## What is copyright?

Copyright is a form of intellectual property protection for a variety of literary and artistic endeavours. Australian law recognises that individuals have the right to protect the moral and economic interests arising from their creative works. It is not ideas but their expression that is protected by copyright law.

In Australia, copyright law is set out in the *Copyright Act 1968* (the Act), and in court decisions which have interpreted the provisions of the Act. From time to time the Act is amended to keep the law relevant and up to date.

The law gives owners of copyright exclusive rights to do certain things with their material. Copyright is intended to protect creative works from being used without the agreement of the owner and to provide an incentive for creators to continue to create new materials.

## Requirements for protection

There is no requirement for registration of copyright in Australia. Copyright protection does not depend on publication, a copyright notice, or any other procedure – the protection is free and automatic. A creative work is protected from the time it is first written down or recorded in some way, provided it has resulted from the creator's skill and effort and is not merely copied from another work. By virtue of international copyright treaties, Australian copyright law protects works created in most countries and Australian works receive protection in most countries.

## The copyright notice

To remind people that a work is protected, and to identify the copyright owner, it is recommended that creators put a copyright notice on their work. The notice consists of the international copyright symbol ©, the name of the copyright owner and the year of first publication (or the year of creation, if not published). For example, © Jane Brown 2003.

## Duration of copyright

The duration of copyright protection varies according to the type of material protected. In most cases, copyright lasts for the life of the creator plus 70 years. After expiry of copyright, the work enters what is known as the 'public domain' where it can be freely used without permission.

## Ownership of copyright

The general rule contained in the Act is that the creator of a work is the first owner of copyright. The exceptions to this rule are:

- material created by employees in the course of their employment;
- some commissioned artistic material; and
- material made or first published by, or under the direction or control of, the Commonwealth or State Governments.

Also, where the work is the product of collaboration copyright may be jointly owned.

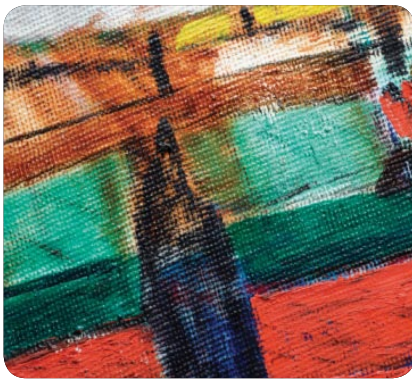
However, the rules about ownership of copyright as set out in the Act can be varied by an agreement between the parties concerned.

## Works created in the course of employment

Copyright in works created by most employees as part of their employment is owned by the employer. This exception does not apply to people working on a freelance basis. Freelancers will own copyright in their works, unless they agree otherwise.



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## Works created by journalists

Changes to the Act relating to employed journalists who write for newspapers, magazines or similar periodicals came into effect on 30 July 1998.

For works created after this date the journalist owns copyright for the purposes of publication in book form and for photocopying hard-copy issues of a newspaper, magazine or similar periodical. The journalist also owns copyright for on-copying from these sources. The publisher owns copyright for all other purposes including publication in a newspaper, magazine or similar periodical for online publishing and for digital copying.

For works created prior to 30 July 1998 the publisher owns copyright for the purposes of publication in a newspaper, magazine or similar periodical and for broadcast. The journalist owns copyright for all other purposes, including publication in book form and photocopying.

## Commissioned works

For commissioned works, copyright is generally owned by the author.

Changes relating to the commissioning of photographs came into effect on 30 July 1998.

After this date, a person who commissions a photograph for private or domestic purposes owns the copyright. Private or domestic purposes are deemed to include portraits of family members, wedding parties or children.

Where photographs are commissioned for other purposes, for example by an advertising agency for a commercial, the photographer owns the copyright.

For photographs taken prior to 30 July 1998 the person who commissions the work owns the copyright irrespective of its purpose.

Remember that these rules can be altered by agreement between the parties.

## Commonwealth or State material

Copyright in material made or first published by the Commonwealth or State governments, or under their direction or control, is owned by the Commonwealth or the State. The 'Commonwealth or State' includes departments but may not extend to independent statutory authorities. The same rules extend to Territories of Australia.

## What does copyright protect?

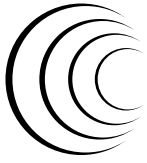
- **Literary works** — including books, newspaper articles, computer programs and compilations including anthologies and directories.
- **Dramatic works** — including plays, dance and mime.
- **Musical works** — including scores and combinations of melody and harmony.
- **Artistic works** — including paintings, drawings, cartoons, photographs, sculpture and craft work.
- **Cinematograph films** — including films, videos and TV programs.
- **Sound recordings** — including compact discs, tapes and records.
- **Broadcasts** — sound broadcasts and television programs.
- **Published editions** — publishers' typographical arrangement.

It is important to note that copyright protects films, sound recordings, broadcasts and published editions separately from the works, such as music and scripts contained in them.

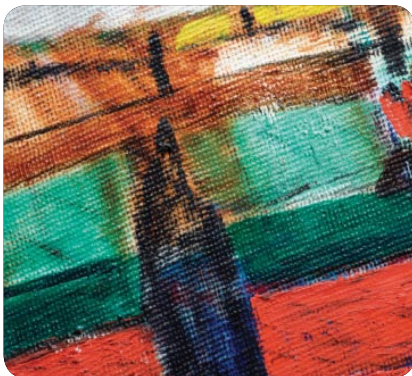
## Exclusive rights of copyright owners

Owners of copyright have exclusive rights to deal with their works in certain ways, as set out below. The type and extent of the rights differ according to the type of material protected.

**Literary, dramatic and musical works:** the right to reproduce, publish, perform in public, communicate to the public, and adapt (includes translation and dramatisation).



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**Artistic works:** the right to reproduce, publish, communicate to the public.

**Cinematograph films:** the right to make a copy, communicate the film to the public, cause to be seen in public.

**Sound recordings:** the right to make a copy, communicate to the public, cause to be heard in public.

**Broadcasts:** the right to make a film of a television broadcast, a sound recording of a sound broadcast and the right to re-broadcast or communicate to the public by other than broadcast.

**Published editions:** the right to reproduce.

As of 1 January 1996, owners of copyright in computer programs and sound recordings have the exclusive right to rent these items.

Copyright owners may assign or license these rights to others, with or without limitations (such as type of use or period of time) and conditions (such as payment).

## Infringement of copyright

Dealing with copyright material in any of the ways listed above, without the copyright owner's permission, will usually be an infringement of copyright. Dealing with part of a work may also infringe copyright if that part is important to the work – it need not be a proportionally large part. Copyright may also be infringed by authorising the doing of any of the acts listed above; by importing articles containing copyright material; and by selling infringing articles.

## Exceptions to infringement

There are exceptions to infringement which allow some uses of copyright material without permission. These exceptions include:

**Fair dealing for the purpose of research or study.** This allows a student or researcher to copy protected material. Copying 10% or one chapter of a published literary, dramatic or musical work, of ten pages or more, and one article from a periodical, is deemed to be fair.

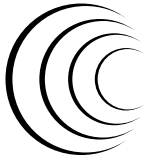
**Fair dealing for the purpose of criticism or review.** This exception allows reviewers to make a fair use of copyright material provided they acknowledge the work.

**Fair dealing for parody and satire.** As of 11 December 2006 provisions in the Act apply where a person or organisation can demonstrate their use of copyright material to be fair dealing for parody or satire. The terms are not specifically defined, however parody may involve the imitation of an author or work for ridicule or comic effect. Satire may involve using irony or wit to attack an idea, attitude, institution or social practice.

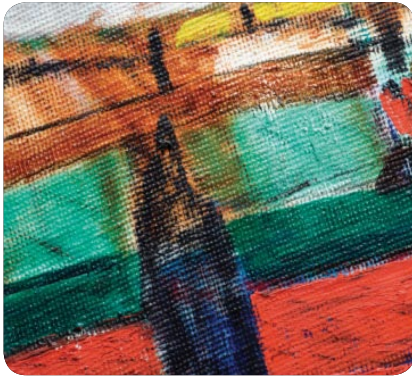
**Statutory licences.** These allow educational institutions and institutions assisting people with disabilities to reproduce and to communicate to the public protected material for defined purposes, without the need to obtain the copyright owner's permission. The Commonwealth, State and Territory governments are allowed to reproduce material without permission.

**Special purposes.** New flexible dealing exceptions allow libraries, educational institutions and the disabled to copy works where there is no other exception or statutory licence they can rely on in the Act, so long as the use meets the three step test: where it is a 'special case'; where use does not conflict with material's normal exploitation; and where use does not unreasonably conflict with the interests of the copyright owner. All contain further express limitation that the use must not be made for commercial advantage or profit.

**Private copying.** Amendments to the Act now allow for format-shifting, where certain types of material owned for private and domestic use may be copied into a different 'format.' For example CDs copied to MP3, newspaper articles in hard copy digitally scanned for private use. To rely on this exception, the original copy you own must be kept, and must be a legitimate copy. You may also legally record broadcasts to view at a more convenient time for private use, but not for creation of home libraries of content.



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## **Who is CAL?**

Copyright Agency Limited (CAL) is a copyright management company which administers parts of the copyright of thousands of authors and publishers – the right to reproduce their work and the right to communicate their work to the public.

CAL's mission is to secure fair payment for authors and publishers for the copying of their works, while providing users with a legal means of copying and communicating their works.

CAL acts as a channel between copyright owners and users by licensing organisations to copy or communicate a work, collecting a licence fee or royalty, and then distributing those fees to the authors and publishers who own the copyright. By ensuring fair payment to the copyright owners, creativity and investment in the further development of works is encouraged.

## **CAL's licences**

In Australia, the Act has created statutory licences for reproduction and communication to the public by educational institutions and institutions assisting people with disabilities, provided they do so within the limits set out in the Act. There is also a statutory licence allowing Commonwealth, State and Territory governments to reproduce material without permission.

CAL is the declared collecting society for the administration of these statutory licences.

In addition, CAL offers voluntary licences on behalf of its members to organisations who copy, but are unable to rely on the statutory licences. These include corporations and associations. Under these licences, users can copy within the limits of the licence from the repertoire of CAL's author and publisher members, without the need to seek permission directly from the copyright owner. If they wish to copy beyond the limits of the licence, they can seek permission directly from the copyright owner.

## **Membership of CAL**

Membership of CAL is free.

CAL's members include authors, journalists, visual artists, photographers and surveyors, as well as journal, magazine, newspaper and book publishers.

All Australian controllers of copyright in print material are eligible for membership. Membership does not involve any assignment of rights to CAL.

## **Code of Conduct**

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.