

# What are moral rights?

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Moral rights are rights provided to creators under copyright law in order to protect both their reputation and the integrity of their work.

In Australia, moral rights were introduced in December 2000 through the *Copyright Amendment (Moral Rights) Act 2000*. This legislation provides creators with three rights. They are:

- the right of attribution of authorship;
- the right not to have authorship of their work falsely attributed; and
- the right of integrity of authorship. This protects creators from their work being used in a derogatory way that may negatively impact on their character or reputation.

Moral rights last for the same time as copyright in a work, the term of which is usually the creator's life plus 70 years.

## Why are moral rights different?

Copyright is designed to protect the 'economic rights' of copyright holders. In comparison, moral rights protect the reputation and integrity of creators. So while Copyright Agency Limited (CAL) manages copyright, and monitors the reproduction and communication of works, it does not monitor the moral rights of its members.

As a creator, you retain your moral rights even if you do not own the copyright in your work. Moral rights can only be held by individuals, so corporate entities and organisations cannot claim moral rights in a work.

## What type of works do moral rights apply to?

Moral rights apply to a wide range of works including:

- artistic works - including drawings, paintings, sculptures, graphs;
- musical works;
- dramatic works - including plays, film scripts;
- written material - including novels, textbooks, poems, songs, journal articles;
- computer programs; and
- films.

## What would be considered an infringement?

There are numerous ways that moral rights can be infringed. They include:

- not attributing a work to its rightful creator or falsely attributing the work to someone else;
- reproducing a falsely attributed work;
- treating a work in a derogatory fashion. This can include distorting, mutilating or materially altering the work; and
- dealing commercially with or importing a work that had been treated in a derogatory fashion.

If an infringement occurs the creator of the work is entitled to take legal action.

## Can I sell or transfer my moral rights?

No. Unlike copyright, moral rights cannot be transferred or sold. This said, moral rights will not be infringed if a creator has consented to their work being used in a particular manner. This is called creator's consent. This consent must be in writing

### More information

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and needs to specifically detail the way the creator will allow the work to be used. It may apply to current or future works, and employees are able to give their employer a general consent for works created in the course of their employment.

### Are there any defences to infringement?

Yes. There are cases where either not attributing a creator or treating a work in a derogatory manner would not constitute a breach of moral rights. These include creator's consent, as well as reasonable use.

The *Copyright Act 1968* (the Act) provides a defence to infringement if the use of a work was reasonable. There are a few considerations in determining what constitutes 'reasonable'. These include:

- the nature of the work;
- the purpose for which it was used;
- whether the work was created while in employment;
- if there are two or more authors, their views about how the work was used or attributed; and
- relevant industry practice.

### What is relevant industry practice?

The law takes into account that different industries operate in ways where strict adherence to moral rights is not practical. A good example is the advertising industry where large groups of people work on single advertisements. It would be very difficult to meet the right of attribution by listing in advertisements every single person involved in the creative process.

### More information on moral rights

For more extensive information concerning moral rights, including special exceptions to infringement and issues surrounding films, visit the Australian Copyright Council's website at [www.copyright.org.au](http://www.copyright.org.au). The Council also has available a book on moral rights entitled *Moral Rights: a practical guide*.

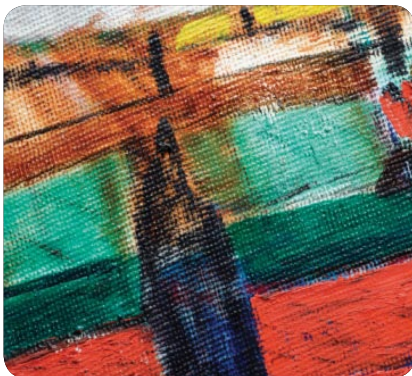
### Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works

### 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.



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