

Writers and Copyright

Overview

Original literary works, like novels, poems or journal articles, are automatically protected by copyright when recorded in a material form, such as in writing. There is no need to register your copyright or go through any process for your material to be protected by copyright.

There is no copyright protection for ideas or concepts. It is only when those ideas are expressed in a material form (such as in writing), that they attract copyright protection. To attract copyright protection, writing must be 'original' in the sense that it originates from the author and is not copied. It must be a product of the author exercising independent skill and labour.

There is generally no copyright protection for single words or short phrases. Legal protection for single words or short phrases may be available by registering a trademark or under other laws.

Ownership

The creator of written material is generally the first owner of copyright in the material. If you have written material in the course of your employment, your employer is the first owner of copyright, unless there is agreement to the contrary.

If you have a written agreement about material you write, that agreement may state who owns copyright in the work. There may be more than one owner of copyright in a single work.

Rights as a copyright owner

The Copyright Act 1994 gives authors of literary works the exclusive right to:

- copy their work (for example, by photocopying it, copying it by hand, reciting it onto an audio device or digital scanning);
- publish their work;
- perform their work in public;
- broadcast their work or include it in a cable programme service; and
- make an adaptation of their work (for example by making a translation, a dramatised version or pictorial version), or do any of the above activities in relation to an adaptation.

Additionally, the copyright owner can authorise another person to do any of the above activities.

Publishers' copyright

There is a separate copyright in the typographical arrangement of a published edition of a written work. This copyright protects the layout of the work on the page and is commonly referred to as the “publisher’s copyright”. It exists independently from copyright in the written work.

How long does copyright last?

In New Zealand, copyright in written material lasts for the life of the author plus fifty years from the end of the year in which the author dies. For a work of joint authorship, copyright lasts until fifty years after the end of the year in which the last joint author dies.

Publisher’s copyright (referred to above) in written material lasts for 25 years from the end of the year of publication.

The period of copyright protection is longer in Australia, Europe and the United States – generally 70 years from the end of the year in which the author dies.

Dealing with rights in copyright works

As copyright owner, you can assign or licence your copyright to another person. If you assign copyright in a work, you are selling or transferring it to someone else and that other person becomes the owner of the copyright. An assignment of copyright must be in writing and signed by the person assigning copyright.

Licensing means that you remain the owner of copyright but permit someone else to deal with it, for example, allowing a publisher to publish a book or allowing a script writer to adapt a novel for the screen. You can limit the rights granted (for example, by type of use, by period of time, or by territory), and impose conditions (for example, that a person cannot use the work until you receive an agreed payment, or that you must receive an acknowledgement of authorship).

Copyright may also be transferred to others on death of the copyright owner.

When is copyright infringed?

Copyright is infringed when another person does something, without permission, in relation to a work in a way that is reserved to the copyright owner..

Infringement may occur in relation to a whole work or a substantial part of the work.

“Substantial” refers to an important or distinctive part of the work. Generally, infringement turns on the quality of what is taken, rather than the quantity. For instance, for infringement it may be sufficient that only a small part of a poem, story or article is copied.

There are special circumstances in the Act where a person may copy your work without your permission. These are:

- for criticism, review and news reporting;
- for research or private study;
- for educational purposes; and
- for public administration purposes.

These exceptions from infringement should be interpreted carefully because they apply in narrow circumstances only. For further information, see our information sheet *Fair dealing, Copyright & education and Copyright & public administration*.

Copyright symbols and notices

Although not legally required for copyright protection, it is sensible to include a copyright notice on your work. A common form of copyright notice consists of the © symbol, the name of the copyright owner and the year the work was first published, for example:

© Jane Doe, 2002

Copyright collecting societies

If your work is being copied in educational institutions or by other organisations, you should contact Tāwhia Copyright Aotearoa about joining its licensing schemes.

Moral rights

Writers have certain “moral rights” which give them:

- the right to be identified as the author of the work;
- the right to object to derogatory treatment of the work;
- the right to not have a work falsely attributed to them.

The right to be identified as the author of a work must be asserted to be enforced. This means that a writer needs to require a person to identify them as the author. This is often done by including a moral rights statement on the imprint page of a book.

Moral rights remain with the writer, even if copyright is assigned to another person or if copyright is initially owned by the writer’s employer.

For further information see our information sheet on *Moral rights*.

Tāwhia Copyright Aotearoa does not provide legal advice, only general information on copyright issues. If you require expert or legal advice on copyright, you should seek the services of a legal professional. For more information please contact us.