
MORAL RIGHTS

Introduction

Moral rights were introduced into the Copyright Act in 2000 to confer certain protections to authors irrespective of any economic interest in their creation. This information sheet provides basic information on moral rights and their significance for authors. See Arts Law's information sheet on [Copyright](#) for the relevant background information.

What are moral rights?

Moral rights are personal rights that connect authors to their work. Though they exist only in relation to copyright material, they are distinct from the economic rights included in copyright.

Moral rights arise automatically and have a legal meaning. There are three types of moral rights:

- **Right of attribution:** this is the right of an author to be identified and named as the author of his/her work;
- **Right against false attribution:** this is the right of an author to prevent others to be identified and named as the author of his/her work; and
- **Right of integrity:** this is the right of an author to ensure that his/her work is not subjected to derogatory treatment. The Copyright Act defines "derogatory treatment" as any act in relation to the work that is in any manner harmful to the author's honour or reputation.

Who owns moral rights?

The author of a work has moral rights in relation to that work, even if the author is not the owner of the copyright in the work.

Performers in a live or recorded performance are considered to be "authors" of their performances and have moral rights in relation to the performance. See Arts Law's information sheet on [Performers' rights](#) for more information.

As moral rights recognise the ongoing connection between authors and their work, they are individual. This ongoing connection requires that moral rights cannot be given away, sold or otherwise disposed of.

As a result, an author might not own copyright in the material he/she created, for example because it was created in the course and within the scope of his/her employment but still have moral rights in relation to that material, subject to the consent regime or exceptions.

Consent regime

An author can consent in writing to other people's specific actions or omissions which would, in the absence of consent, amount to an infringement of moral rights. This is common in the area of literary works created within the course and scope of employment, where the employee consents not to be attributed as the author of a text (e.g. a volunteer in your organisation consents not to be attributed as the author of an information sheet or text on your website).

Duration of moral rights

The duration of moral rights depends on the nature of the moral right and whether it is held by an author or a performer.

An author's moral right of integrity in respect of a work other than a cinematograph film, and the author's right of attribution and right against a false attribution all continue in force until copyright in the authored work or subject matter expires – 70 years following the author's death. However, the moral right of integrity of the director, producer and screenwriter of a cinematograph film only continues in force until their death.

The duration of performers' moral rights is quite different. While the moral rights of attribution and false attribution in a recorded performance continue until copyright in the recorded performance expires - 70 years from the end of the calendar year in which the recording (sound only or audiovisual) was first published, the moral right of integrity in a recorded performance continues only until the performer dies.

Moral rights infringement

In principle, any act which is contrary to an author's moral rights, for instance a failure to attribute the author or a derogatory treatment of the author's work, is considered a moral rights infringement.

There is, however, no moral rights infringement if:

- the author has consented to the action or omission that would otherwise infringe moral rights; or
- the defence of reasonableness or an exception applies.

Defence of reasonableness

There is no infringement of the moral right of attribution and of integrity (but not against false attribution) if it was reasonable in the circumstances not to identify the author or to subject the work to the derogatory treatment. A number of factors are used to determine whether a failure to attribute or an act amounting to derogatory treatment is reasonable in the circumstances, such as the nature of the work, its purpose, the manner and context in which it is used, relevant practice as well as the context in which it is created. For example, it is common not to attribute the author of a text written by an employee, for example internal guidelines, sample contracts, information sheets. In such circumstances, the copyright material is attributed to the employer entity rather than to the individual or individuals who actually did the drafting.

Exceptions

In order to balance the interests of authors and of owners of copyright material, the Copyright Act allows certain acts which would otherwise constitute an infringement of the right of integrity if the owner complies with certain notification requirements.

Remedies

If you think someone has infringed your moral rights, you should contact them, possibly by sending a letter of demand. For more information, see Arts Law's information sheet on [Moral rights infringement and letter of demand](#).

If a court agrees that an author's moral rights have been infringed, the author can get an order from a court for:

- a public apology;
- a declaration of infringement;
- payment of money for the harm suffered (damages);
- the person to stop the infringement (an injunction); or
- an order that any false attribution or derogatory treatment is removed or reversed.

Further information

You can find additional information about moral rights on the websites of: Moral Rights

[Australian Copyright Council](#) - [Moral Rights](#)

Relevant Arts Law information sheets include:

- [Copyright](#)
- [Copyright infringement and letter of demand](#)
- [Moral rights infringement and letter of demand](#)
- [Performers' rights](#)

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The Arts Law Centre of Australia has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

