

## MORAL RIGHTS

### What are Moral Rights?

- Moral rights recognise an artist's ongoing connection with their creative work. They are separate to rights of copyright and reflect the principle that people must respect your work and you as the creator of your work.
- The words "moral rights" have a special meaning under Australian law that is different to the everyday/dictionary meaning.
- There are 3 types of moral rights under Australian law:
  - **A right of attribution** – this means that the artist must be named or acknowledged as the creator of their work (whether art, music or film).
  - **A right of integrity** – this means that an artist's work must not be used in a way that would harm the artist's honour or reputation
  - **A right against false attribution** – this means that another artist cannot be wrongly named as the creator of work which you created.

### Who owns moral rights?

- Moral rights belong to an individual artist when they create a work.
- Moral rights:
  - are personal to the artist and the artist cannot give them away, sell or transfer them; and
  - do not protect communities.
- Even if you sell your work or are not the copyright owner, you still have moral rights in it. This means that you have some control over the use of your work.
- **Example:** If you create an artwork in your job, your employer owns the artwork and the copyright in it but you still have moral rights in relation in that artwork. If the employer sells the artwork or the copyright in it or both, the employer receives the payment not you. Your name, however, should appear wherever the artwork is displayed and the purchaser cannot make changes to your artwork that harm your honour or reputation.

### How long do my moral rights last?

- Your moral rights last as long as copyright. Generally that means you have moral rights in your work for the whole of your life plus another 70 years.

## What can I do if someone misuses my artwork or doesn't properly acknowledge me?

- You can take legal action against a person who does not respect your moral rights. These kinds of actions are called “infringements” of moral rights. If a court agrees that your moral rights have been infringed, you can get an order from a court that:
  - you get a public apology;
  - you are paid money for the harm caused to you (damages);
  - the person must stop the infringement (an injunction); or
  - an order that any false attribution or derogatory treatment is removed or reversed.
- There is, however, no infringement of your moral rights **if**:
  - you consent to the actions that would otherwise infringe your moral rights; or
  - the other person's actions are reasonable in the circumstances.

## Performers' moral rights

From 26 July 2007, some performers have moral rights in their live performances and in any sound recordings of such live performances. Moral rights are only held by performers who contribute to the sound of the performance. For example, singers, musicians and actors with speaking roles (and conductors) have moral rights but not dancers, acrobats or mime artists. Such performers (including individuals and groups) are now entitled to:

- **A right of attribution** – this means that the performer or performers must be reasonably identified.
- **A right against false attribution** – this prevents a producer or event manager falsely stating or implying to an audience or prospective audience who the performer or performers are.
- **A right of integrity against derogatory treatment of the performance in a way that prejudices the reputation of the performer** – this prevents actions that result in a material distortion or alteration of, or mutilation of the performance so that the performer's reputation is harmed. For example, taking a recording that the artist considers unfinished or very poor quality and broadcasting it on the radio.

A failure to attribute a performer, false attribution of a performer or derogatory treatment of a performance does not infringe the performer's moral rights if the performer consented in writing or if the act or omission was 'reasonable' in the circumstances.

For more information see Arts Law's information sheets on Moral Rights and Performers' Rights.

## Further Information

Arts Law Centre of Australia ([www.artslaw.com.au](http://www.artslaw.com.au)), tel. (02) 9356 2566 1800 221 457

**Australian Copyright Council** ([www.copyright.org.au](http://www.copyright.org.au))

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