

## COPYRIGHT

### What is copyright?

- Copyright is a bundle of legal rights which artists own in relation to their creative work. Copyright gives the artist rights to control how other people can use their creative work.
- The copyright owner can control who can copy their work and how it can be used. The copyright owner can permit or refuse permission to other people who want to do these things.
- Copyright exists immediately. You do **not** need to register to get copyright.
- The © symbol is a way of telling people that you own copyright.
- Copyright only protects certain kinds of artistic creations called 'works' and 'other subject matter'.
  - Works protected by copyright include written or literary art (such as books, stories, poems), dramatic art (such as plays and dance), music, and visual art (such as paintings, photos, sculpture, some craft).
  - Other subject matter protected by copyright includes sound recordings, films, and broadcasts.

- Copyright only protects works and subject matter which has been written down or recorded somehow. It does not protect ideas or styles.

For example, it doesn't protect stories that have been passed down orally or particular ways of painting such as rock art. If you tell someone your idea for a film or painting, copyright does not prevent that person using your idea to create their own painting or film.

- Even when you sell your work or other subject matter, you keep the copyright.

For example, if a buyer purchases your painting from an art centre they own that painting and can hang it on a wall or sell it again, but they can't use photos of it on their website or sell T-shirts or postcards showing that painting because they don't have the copyright. Only the copyright owner can authorize when copies can be made and used.

### Who owns copyright?

- Copyright generally belongs to the person who made the work. Sometimes two or more people can own copyright together if they created the art together.
- But if you make art as part of your job, your employer (e.g. the business owner or government) may own the copyright. This means they can copy and reuse your work as often as they like without your permission.
- If you do not want your employer to own copyright, you have to meet with them before you start creating. Together you can agree that you should own copyright or how it can be shared with your employer.

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- If a person who asks you or pays you to take a photograph for them for their private (non-commercial) use, or to paint or draw their portrait, or to make an engraving, that person will be the copyright owner of that photograph or portrait not the artist.
- To make sure that people know that you are the copyright owner of your work use the ©, symbol, your name and the year that it was created like this:

**© I. Painter 2004**

You should put this on your work - on the title page of your story, on the back of your painting or on your CD cover. You do not have to do this. But it's a good idea.

## Dealing with copyright and proof of ownership

- Always keep a record of your work to show that you made it. For example, take photos or keep drawings of your artwork.
- An artist can only sell or give away their copyright in a written document which they sign.

But it is very easy for a copyright owner to give permission to someone else to use their copyright. That might happen in an email or in a conversation so you should be very careful in any discussions about how your work is going to be used. Any permission to use your copyright should be in a written agreement that you understand and on terms you agree are fair (including payment).

- If someone copies a work or other subject matter without the copyright owner's permission, this is referred to as an infringement of copyright. The copyright owner can take legal action to stop this. Court cases can be about an artist copying another artist's work or a buyer copying artwork without the artist agreeing.
- If you think someone has copied your artwork without your permission, you should speak to a lawyer about the chances of success.
- Universities and schools are permitted to copy your work without asking you if it is to be used for an educational purpose but they must pay a fee. Those fees are collected and distributed to artists by collecting societies. For more information see Arts Law's information sheet on **Collecting Societies**.

## How long does copyright last?

- Copyright generally lasts for the life of the artist plus another 70 years.
- After this time, the work enters the public domain and is no longer protected by copyright. For example, the copyright in most rock art expired long ago. The copyright in photos and sound recordings made before 1 January 1955 has also expired. Anyone can now copy and use works in the public domain.
- When you pass away, your copyright goes to whoever inherits your estate. You can make a will that says who gets the copyright in your artwork.

## 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))

## Disclaimer

The information in this information sheet is general. It does not constitute, and should be not relied on as, legal advice. The Arts Law Centre of Australia (**Arts Law**) recommends seeking advice from a qualified lawyer on the legal issues affecting you before acting on any legal matter.

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