



What is copyright? Copyright is a legal concept. Usually seen as a set of “rights” whereby the creator of a copyright work can prevent the copying of the work without permission, it is in fact a whole system of rules concerning the ownership and use of creative material. The types of work which are regulated by copyright include:

original literary, dramatic, musical and artistic works (traditionally called the “classical” copyrights);
film, sound recordings, broadcasts and the typographical arrangement of published editions (often called “related rights”, because they involve the exploitation of “classical” works);
computer software and non-original databases (despite their modest credentials as “creative” works) and
performances.

Copyright is becoming highly regulated. Vast sums have been invested in media-age information and entertainment products, which depend on protection from piracy. At the same time, developing technology facilitates cheap and easy copying, as well as the electronic transmission of works across national boundaries. To meet these challenges, a number of international agreements and European Union directives have been enacted with the objective of standardising copyright law and improving the conditions for enforcement.

How do I protect my copyright? Copyright arises automatically on the creation of an original literary work. There is no need to register a copyright or to assert it in any particular manner. It is prudent however, when circulating a work in any fashion, to mark it with the copyright symbol ©; the name of the author; and the date of creation of the work. This acts as a public warning that the work is protected. Depending on the circumstances, it may be difficult for an author to prove that he or she had created a work at a specific point in time. Proof of this fact might be needed in an action for infringement. An author can create such proof by sending a copy of the work to himself or herself by registered post, keeping the post office receipt and leaving the envelope unopened.

What “rights” do I have in my work?

Economic rights

Copyright gives an author the right to prevent others from exploiting the work in various ways, without permission. The form of restricted exploitation include: copying the work; making the work available to the public; distributing the work; renting or lending it (excluding public lending); and translating, arranging or adapting the work. It is these restrictions which enable the author to charge a fee, or royalty for the reproduction of the work.

Moral rights

The rights described above are usually called the “economic rights” in the work. By virtue of the new legislation authors will in future enjoy “moral rights” in addition. Moral rights were previously unknown under Irish law, but are a common feature in other European systems. They have been introduced in Ireland as a result of European Directives aimed at harmonising copyright law throughout the European Union.

The moral rights of interest to authors are: the paternity right (the right to be identified as the author of the work); the integrity right (the right to prevent mutilation, distortion or other derogatory alteration of the work) and the right of false attribution (the right not to have a work falsely attributed to you).

Moral rights may be waived, but a waiver must be in writing.

Are there uses of my work which I cannot prevent? An author cannot prevent the copying, or other use of his or her work, if that use is covered by one of the exceptions to copyright. The principal copyright exceptions of relevance to authors are:

Insubstantial copying

In order to infringe the author's copyright, a "substantial" part of the work must have been copied. Insubstantial copying is therefore permitted. Because it is impossible to say with certainty what is meant by "substantial" in any given situation, users are often reluctant to rely on this exemption. Equally however, authors litigate at some risk.

Fair dealing

A work may be used by anyone for the purposes of research or private study without the permission of the author, provided the use is conducted in a way which does not prejudice the rights of the copyright owner. The work may also be used for criticism or review or for reporting current events, with the same proviso, and provided further that the use of the work is accompanied by an acknowledgement identifying the author and the title of the work.

Educational uses

The use of author's works for certain educational purposes is permitted. These include the use of the work in examinations, and the inclusion of a short passage from the work in an anthology for schools.

Libraries and Archives

Libraries and archives are given limited rights to copy works under certain conditions. Public libraries and certain educational establishments may also lend works without infringing the rights of the author.

How long does my copyright last? Copyright in literary works endures for the life of the author, and 70 years thereafter.

What can I do if my copyright is infringed? A breach of copyright is actionable by the copyright owner. An author can seek an injunction to restrain the breach, and in a successful case will be awarded damages. At first instance, an author should seek the advice of a solicitor familiar with copyright law.

Will my publisher protect my interests? Authors enter into contracts with publishers, under which the publisher obtains certain rights in the work. Whether or not the author assigns the copyright in the work to the publisher (or simply grants a licence to publish), once the work is published, the publisher has a separate copyright in the typographical edition of the work. For this reason, and for the reason that unauthorised distribution of the work will obviously harm sales of the legitimate copies of the work, the publisher has an interest in preventing unauthorised use of the work.