



Info Sheet: Legal Issues for Writers: copyright and defamation

Your Copyright

In Australia, copyright is automatic. You can copy or adapt your own work, publish it, perform it and so on. You have the right to license, sell, assign and protect your original works. You don't need to apply for these rights or even label your work with the copyright symbol ©. However, it is important to note that copyright does not protect ideas—only work with a concrete form.

If you are acting in the course of your employment, your employer may retain copyright of your work (check your contract if you're a freelancer).

There are two ways other people can use your work:

- licensing
- assigning copyright

Licensing

Licensing means that you retain ownership of the copyright of the work, but allow someone else to use the work in some way. There are different types of licenses. For example a journal, website or competition might ask for a license to produce an excerpt of your work. These licensing agreements might be exclusive or non-exclusive, print or ebook, national or worldwide, or a combination of these. You should consult a professional before signing any contracts with publishers so that you understand and accept the rights that you are licensing.

Assigning

Assigning copyright is essentially giving or selling your copyright to someone else. If you are considering or asked to assign your copyright to a third party, seek legal advice before signing a contract.

The Copyright Agency or Arts Law Australia are useful sources of information.



International copyright

If you publish internationally, it's important to remember that the copyright laws of the country in which you are publishing will apply.

Despite this, Australia is party to several contracts protecting the copyright of Australian authors in other countries. So you do not need to apply for copyright in most countries that operate under registration systems, such as the USA. There are, however, advantages to doing so. Registering your copyright makes it easier to take legal action if your rights are infringed and can also help to prove the originality of your work if you were to experience a legal dispute of this nature in another country.

Other people's copyright

Using lyrics, quotes and extracts

Many writers wish to use photographs, lyrics, quotes or extracts from other authors in their own works. You may do so for works in the public domain (where the author died more than 70 years ago) or when simply mentioning a title or author. Generally, all other lyrics, quotes and extracts are under copyright and you must therefore obtain permission to use it prior to publication.

Tracking down the owner of copyright is not always simple. Sometimes the copyright owner is not the author of the work, but the publisher or another entity is. Once you do identify the copyright holder, you may negotiate use of the work with the owner. They may provide the work for free, charge a fee, or refuse use.

Using photographs

Just because you own a photograph does not mean you own the copyright. The photographer retains the copyright. This is the case even if you or your family are in the photograph.

Ensure you have a written agreement or license before you publish anyone else's words or images.

Creative Commons

Creative Commons licences are a new form of copyright license that enables people to share their work and use other people's works, particularly in the digital environment. They are free to use, and are an easy way to indicate if you are happy for your work to be used, and in what circumstances.

This licensing system is great for people who want to use images, fonts etc., which can be very useful for people who are self publishing or digitally publishing their own work. To find out more, visit Creative Commons Australia.

Defamation

Defamation is a communication that harms the reputation of another person. It is particularly relevant to memoir writers and journalists. This area of law is complex and often confusing. If you are sued for defamation, it can be costly in terms of compensation and the offended party may also order an 'injunction' to force you to cease printing and distributing the defamatory material.



For autobiographical stories in particular, defamation is a minefield. Even if the work is marketed as fiction and the writer uses pseudonyms or includes a disclaimer stating that the work is simply the author's views, there may still be people able to identify themselves as the characters.

If you are unsure, seek legal advice. If someone brings an action against you for defamation, seek legal advice immediately.

To find more information:

Arts Law Centre of Australia
Australian Society of Authors
Australian Copyright Council
Creative Commons Australia



