

Your guide to NZ Copyright



Let's do the right thing

Frequently Asked Questions

General

What does copyright protect?

Copyright exists in original works of the following description:

- Literary, dramatic, musical or artistic works;
- Sound recordings;
- Films
- Broadcasts;
- Cable programmes; and
- Typographical arrangements of published editions.

How can I register my copyright and how much does it cost?

There is no system for copyright registration in New Zealand. You don't need to submit your work to any organisation, publish your work, pay a registration fee, put a copyright notice on it, or do anything else to get copyright protection – it is automatic and free.

An original work is protected from the moment it is put into "material form" such as in writing or recorded in some other way.

How can I prove I am the copyright owner?

Your own statement that you are the copyright owner will generally be sufficient.

However, if there is a dispute about who created something or about ownership of copyright in a work that can't be sorted out by negotiation, it may need to be resolved by a court. A court will consider all relevant evidence, including written and oral agreements, evidence of the parties and of witnesses, previous drafts, sketches, working drawings etc.

A copyright notice on the work may be relevant to the issue of ownership but will not necessarily prove ownership.

Does copyright protect my ideas?

Copyright Licensing Limited
L4, 19-21 Como St, PO Box 331488,
Takapuna, Auckland 0740, NZ
T +64 9 486 6250
Freephone: 0800 480 271
E info@copyright.co.nz
www.copyright.co.nz

No. Copyright does not protect ideas or information. It protects the expression or form that those ideas or information take. For example, an idea for a novel or screen play is not protected by copyright, nor is the subject matter of a photograph or painting.

However, ideas may be protected by other laws including where there is a duty of confidentiality and under the law of patent. Patent protection is available for products, processes, improvements and testing methods related to manufacturing that are useful, new, novel and inventive. Patent protection requires registration. In New Zealand, patents are registered with the Intellectual Property Office of New Zealand www.iponz.govt.nz.

What is the standard form of copyright notice?

A common form of copyright notice is the copyright symbol “©”, followed by the name of the copyright owner and the year of first publication. For example,

© Phyllis Shirley Smith, 2007

In many publications, other words are added to the notice. For example: “Except as provided by the Copyright Act 1994, no part of this publication may be reproduced or stored in a retrieval system in any form or by any means without the prior written permission of the copyright owner”.

However, there is no standard form of copyright notice – the copyright owner can decide on the wording used.

Is my work protected by copyright overseas?

New Zealand is a party to several international treaties and agreements dealing with copyright protection. As a result, most work created by New Zealand residents, citizens and nationals will be recognised in most other countries. Similarly, most work created by people overseas is also protected in New Zealand under the Copyright Act.

If your work is to be published or distributed overseas, you may need advice from a legal professional who is familiar with the copyright law of the relevant country.

Are logos on product packaging protected by copyright?

Copyright does protect some logos. Logos (and names, colours, sounds and smells) are also protected under other areas of the law, including trademark. Trademark protection usually depends on registration. In New Zealand, trademarks are registered with the Intellectual Property Office of New Zealand www.iponz.govt.nz.

What can I do if someone has infringed my copyright?

If you think someone has infringed your copyright, you will usually need to get advice from a lawyer about your chances of success in a legal action and what steps you should take.

What are the penalties for copyright infringement?

Where copyright is infringed, the copyright owner may bring a legal action against the infringer to recover damages or an account of profits. Damages is monetary compensation paid to the copyright owner for loss suffered in respect of the infringement. An account of profits is the profit made by the infringer from their infringing activities.

What does “public domain” refer to?

The term “public domain” refers to material in which all copyright has expired. The term can also refer to material where the copyright owner has given very broad permissions to people to use it.

Is everything on the Internet in the public domain?

No. Just because a work is on the Internet does not mean that it is in the public domain or “copyright-free”.

How long does copyright last?

In New Zealand, copyright in literary, dramatic, musical, and artistic works lasts for the life of the author plus fifty years from the end of the year in which the author dies.

Copyright in sound recordings and films lasts until the later of fifty years from the end of the year in which the work is made or is made available to the public.

Copyright in computer-generated works lasts until fifty years from the end of the year in which the work is made.

Where the authorship is unknown, copyright lasts until fifty years from the end of the year in which the work was first made available to the public.

The period of copyright protection is longer in Australia, Europe, and the United States – generally 70 years from the end of the year in which the author dies.

Can I print or download material from the Internet?

Copyright laws generally apply to material on the Internet, in the same way as it applies to other material. Many web sites have specific copyright statements that relate to the content on that site and tell you what you can and cannot do with it.

However, where there is no copyright statement, this does not necessarily mean you have an implied licence to copy the material (either by printing or downloading it). In some circumstances you may copy the material without permission for your own research or private study purposes.

Can I use someone else's work in my work if I alter at least 10% of it?

There is no copyright rule that allows copying if a percentage of a work is altered or a few changes are made. If there is a sufficient degree of resemblance between your work and the original, you probably need permission.

Infringement

How can I prove that someone has copied my work?

If the infringing work is not an identical copy of the original work, but is substantially like the original, it may still be possible to prove copying. It will depend on the circumstances of the case, including whether there is sufficient resemblance between the works and whether the other person has had an opportunity to copy the original work.

Someone has photographed my sculpture and reproduced the image on T-shirts for sale to the public. Does this infringe my copyright?

No. The Copyright Act says that sculptures (and models for buildings, buildings and works of artistic craftsmanship) can be copied graphically, photographed, or filmed and copies issued to the public without permission.

Has a painter infringed copyright in my photograph by reproducing it as a painting?

Yes. However, if the painter has merely painted the same image depicted in the photograph, there is no infringement of copyright.

Writers

I have an idea for a novel. How can I make sure no one else uses it?

Copyright does not protect ideas – it protects the *expression* of ideas, once they are put into material form, such as in writing. If you have an idea for a story (or any other type of creative work), the best way to ensure no one else uses it is to keep the idea to yourself. If you want to divulge your idea to any other person, you should get advice about the law of confidential information.

Can I translate a book into another language without permission?

No, you need permission from the copyright owner.

Fair dealing

Do I need to acknowledge the source when I copy an extract for research or private study?

You are not obliged under copyright law to acknowledge the source of something you copy for research or private study, but it is good practice to do so. You may breach other laws if you falsely pass yourself off as the author of material you have copied.

Many educational institutions have standards and rules regarding the citation of third party works.

Can I put copyright material on a website without the copyright owner's permission?

It is possible that putting material on a website could be for the purposes of research or study, but it is unlikely to be fair. Your best course of action is to get permission.

Can I get someone else to copy material for me for my research or study?

Librarians of certain libraries prescribed under the Copyright Act may copy a “reasonable proportion” of a literary, dramatic or musical work or an article from a periodical, if you request it for the purpose of your research or private study.

Another person may be able to make you a copy if their employer organisation has a copyright licence which allows him or her to copy the material you want for you. For example, organisations that have a licence with Copyright Licensing Limited allow staff to photocopy extracts from books and journals for staff use.

I have bought a book and I think my friend would be really interested in one of the chapters. Am I allowed to copy a chapter from the book for my friend?

Generally, if you want to make a copy of all or part of a copyright work for someone else, you need permission from both the author and the publisher. In limited circumstances you can copy reasonable extracts for your own purposes. For more information, see our information sheet *Fair Dealing*.

Government use

Can a government department or agency make multiple copies of an article to hand out to staff?

Generally, no. A government body can only make copies if it owns the copyright in the publication. It may copy third party copyright material in specific circumstances, such as for national security, as long as it pays the copyright owner an equitable sum. For more information, see our information sheet *Copyright and public administration*.

Who owns copyright in a document commissioned by a government department?

The “Crown” (including NZ central government departments) is the first owner of any copyright in original works it commissions, unless there is agreement to the contrary.

Film makers

Can I include images of artistic works in my film?

Generally, you do need permission from the relevant copyright owners in the artistic works. However, there is an copyright exception which allows “incidental” copying of certain works included in a film. For example, if a scene shows a painting on the wall in the background, it is likely to be incidental copying.

Buildings, sculptures, models for buildings and works of “artistic craftsmanship” that are permanently displayed or open to the public can be filmed and commercialised without infringing copyright.

If you are intending to release your film in another country, you may need specialist legal advice on the extent to which you can rely on these exceptions.

I am making a film and want to include music on the soundtrack. Do I need to get permission?

Generally, you do need permission from the relevant copyright owners in the music. Permission is needed, even if the music is incidentally captured on your film soundtrack. However, if the music is not *deliberately* copied, you may not need permission. If you film people performing music, you will also need permission from the performers.

Can I include quotes from literary works in my film?

You will generally need permission if you want to include all or part of a literary work – such as a poem, short story or lyrics from a song – in your film, whether the words are spoken by a character or displayed on the screen.

Do I need permission to write a screen play based on someone else’s novel?

Yes, because the owner of copyright in a literary work has the exclusive right to adapt the work. However, you may not need permission if you are merely inspired by the ideas or information in the novel, because ideas and information are not generally protected by copyright.

Can I use footage from another film in my film?

You need permission if the other film is still protected by copyright. You may also need separate clearance in respect of underlying copyright material in the footage and soundtrack of the other film.

Film users

Can I screen a film at a social club function?

The copyright owner generally has an exclusive right to show a film in public. If you screen a film for people outside a private or domestic sphere, you need permission from the copyright owner because the screening will be “in public” for copyright purposes.

Can I copy a video or DVD I own into a new format?

You need permission to copy a film that is protected by copyright unless a special exception applies. Just because you own a physical copy of a film does not mean that you have the right to copy the film into either the same or a different format.

Broadcast users/ fair dealing

Can I record a television program to watch later?

You can record a television programme for your private and domestic use, solely for the purpose of enabling you to watch the television program at a more convenient time.

You can also record a television programme for the purpose of making a complaint to the broadcaster or other person responsible for dealing with complaints about programme content.

However, you cannot keep the recording for longer than is necessary in each case.

Photographers (Commissioned photographs)

If a client commissions me to take some photographs, but doesn't pay me, do I own the copyright in the photos?

If the client has *agreed* to pay you for the work, the copyright will still be owned by the client. However, you should be able to recover the debt from the client.

Photographers

Do I need permission to make copies of a photograph I own?

If you own the negative, transparency or print in which the image is embodied, you do not necessarily have the right to reproduce the image.

However, if you own copyright in the photograph, you are generally allowed to reproduce the image. If a client has commissioned you to take photos for private and domestic purposes and you own copyright in the photos, you cannot publish, show in public or broadcast the photo without the client's permission.

Do I need permission to photograph a building?

Buildings that are permanently displayed or open to the public can be photographed and commercialised without infringing copyright.

Using photographs generally

Do I need permission to upload a copy of a photo onto my website?

Generally, yes. The owner of the copyright is the only person permitted to copy the work, including uploading the work onto the Internet. Unless any copyright exceptions apply (such as fair dealing for criticism or review), you will need to get permission to copy the work.

Commissioned works / ownership

If a client commissions me to make a sculpture, but does not pay me, do I own the copyright in the sculpture?

If the client has *agreed* to pay you for the work, the copyright will still be owned by the client.

If a client pays me to produce some design drawings, but the work is never completed, who owns the incomplete work?

Copyright in incomplete works will be owned by the commissioning party.

If a client pays me to paint a family portrait can they publish it in a magazine?

The first owner of copyright in a commissioned photo is generally the commissioner or client, unless there is agreement to the contrary. The client will have the right to use the painting for the purpose for which it was commissioned. It is sensible to have a written agreement that sets out the client's and artist's rights.

Can I reproduce work I have done for clients to include on my website or in my portfolio?

This depends on who owns the copyright and the rights agreed upon. If you own copyright, or have retained the right to copy the work, you do not need permission.

You do need the client's permission if your client owns the copyright. Ideally, permission would be obtained at the time you are commissioned to do the work and you should include it in a written agreement.

Visual Artists

If my work is inspired by an existing work, is my work protected by copyright?

To be protected by copyright, a work must be 'original' in the sense that it originates from the author (creator) and is not copied. It is a question of fact and degree as to whether a person has been merely inspired by another work or copied it. An original work must be a product of the creator exercising independent skill and labour.

Can I copy another artist's work without permission if I make changes?

No. You need to get permission from the copyright owner if you want to copy their work, even if you plan to make changes or additions to the work.

Do I need permission to make a painting or drawing based on a photograph?

Generally, if you use the photo merely as a source of inspiration or information, you will not need permission. However, if you copy an important part of the photographer's composition, you may need permission.

Using artworks generally

Can I make copies of a painting I bought?

You need to have permission from the copyright owner unless copyright has expired. If you own copyright in the painting, you do not need permission to copy. However, in most cases you do not acquire copyright simply by purchasing an article embodying a copyright work. A transfer of copyright generally needs to be in writing and signed by the copyright owner.

Copyright Licensing New Zealand does not provide legal advice, only general information on copyright issues. If you require expert or legal advice on copyright, you should seek the services of a legal professional. For more information please [contact us](#)