



Oifig Maoine Intleachtúla na hÉireann
Intellectual Property Office of Ireland

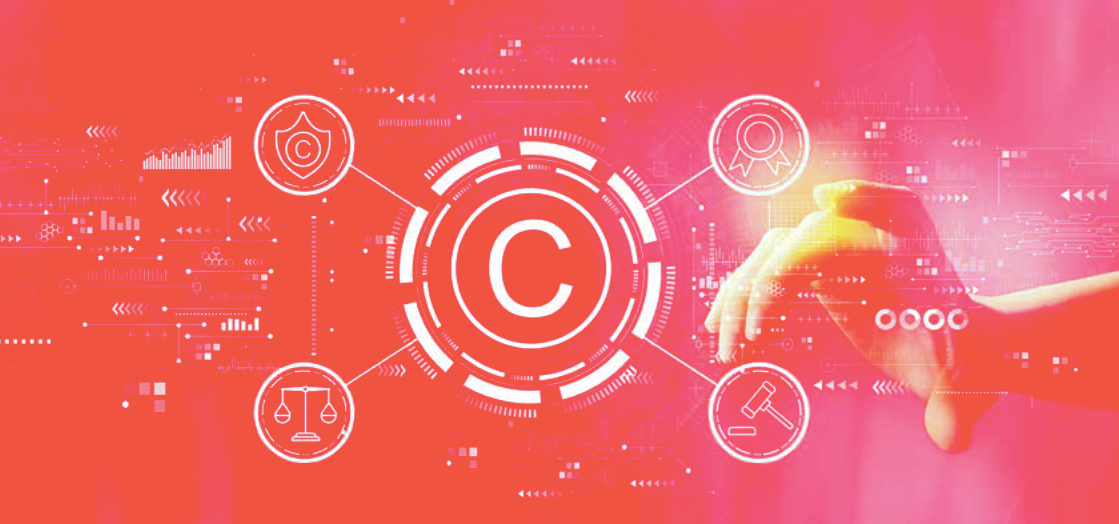
General Information Concerning

Copyright and Related Rights



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Introduction

The information available in this booklet is not intended to be fully comprehensive; it is a general guide and is not a legal interpretation of the law relating to copyright. As with all guides it, of necessity, includes a number of generalisations and simplifications and should not be regarded as a substitute for the legislation itself.

01

What is Copyright?

Copyright is the right given to authors/creators to protect certain categories of work such as literary and artistic works and to prevent others from using it. Copyright is an automatic right and there is no official registration system for copyright owners in Ireland. It takes effect as soon as the work is put on paper, film, or other form of digital medium. Works covered ranges from music, books, film, paintings, sculptures to maps, computer programs and databases.

The primary legislation governing copyright in Ireland is the Copyright and Related Rights Act, 2000 (as amended).

02

What types of works are covered by copyright?

Copyright protection covers the following types of works:

- Original literary, dramatic, musical or artistic works
- Sound recordings, films, broadcasts, cable programmes
- Typographical arrangements of published editions and original databases.
- Digital publications

Artistic works includes the following: photographs, paintings, drawings, maps, charts, plans, engravings, etchings, lithographs, woodcuts, prints or similar works, collages or sculptures, including any cast or model made for the purposes of the sculpture, works of architecture.

Literary works can also include computer programs.

Digital publications include any publication published online or offline which is made available to the public in a medium other than print.

03

Who owns Copyright and what rights does it provide?

The owner of copyright is the person who creates the work, called the author. For example, in the case of a photograph, the photographer is the owner of the copyright. However, as copyright is a form of property, the right may be transferred to someone else, for example, to a publisher. Where an employee creates the work as part of their employment, the employer is the owner of the copyright in the work, unless an agreement to the contrary exists. In order for a copyright transfer to be legally recognisable it must be made through a written agreement signed by the copyright owner.

Copyright is a property right and the owner of the work can control the use of the work, subject to certain exceptions which are outlined in his booklet. The owner has the exclusive right to prohibit or authorise others to do the following:

- reproduce the work in various forms, such as printed/digital publication or sound recording
- perform in public, as in a play or musical work,
- make the work available to the public through broadcasting, or a recording, or via the internet.
- broadcast by radio, cable or satellite,
- translate into other languages,
- adapt the work, such as a novel into a screenplay.

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Copyright Protection

Copyright is an automatic right and in Ireland, as in most countries, there is no registration procedure. Copyright exists from the moment of creation of the work, which then exists in the physical expression of the work.

It is important that the creator of a work can show when the work and the copyright were created, as it may be necessary to start or defend infringement proceedings, at some later stage.

One way of doing this is to deposit a copy of the work with an acknowledged representative, such as a solicitor, to allow the date and time of the deposit to be recorded or notarised.

Alternatively, the creator of the work may send a copy of the work to themselves by registered post as this is a dated delivery system (ensuring a clear date stamp on the envelope), retaining the original receipt of posting and leaving the envelope containing the copyright work unopened thus establishing that the work existed at that date and time.

Alternatively, **WIPO PROOF**, operated by the World Intellectual Property Organisation, is a digital business service that provides a date and time-stamped digital fingerprint of any digital file, proving its existence at a specific point in time.

WIPO PROOF is accessible via <https://www.wipo.int/wipoproof/en/>

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Benefits of Copyright Protection

Copyright protection provides a vital incentive for the creation of many intellectual works. Without copyright protection, it would be easy for others to exploit these works without paying any royalties or remuneration to the owner of the work. Copyright therefore encourages enterprise and creates a favourable climate to stimulate economic activity.

Copyright protection provides benefits in the form of economic rights which entitles the creator to control the use of their literary and artistic material in a number of ways such as making copies, performing in public, broadcasting, use on-line, etc. and to be paid for their work. Creators can therefore be rewarded for their creativity and investment.

Copyright also gives moral rights to be identified as the creator of certain kinds of material (known as the **paternity right**). It also allows the creator of the work to object to the distortion, modification or mutilation of their work by a third party, where this might prejudice their reputation. This is known as an **integrity right**.

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Copyright Notice and Symbol ©

It is important to show that copyright is claimed in a work. Works should be clearly marked to show who the copyright owner is and the date from which copyright is claimed. The internationally recognised symbol © is normally used to indicate that a work is protected by copyright.

e.g. ©Copyright Sean Smith 2020.

The inclusion of a copyright symbol does not legally constitute proof of ownership, but does indicate a claim to copyright, which may prove useful if it is necessary to defend that claim or to prevent possible infringement. It is usually necessary to obtain permission to use copyright material.

The display of a copyright symbol on a work will help in contacting the owner to seek permission to use the work.

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What is not covered by copyright?

Copyright does not protect “ideas”. Copyright law protects the form of expression of ideas, not the ideas themselves. It does not protect names, titles, slogans or phrases. These may be protected as trade marks subject to the provisions of the Trade Mark legislation. Logos may be protected by copyright as artistic creations, but it is advisable to consider seeking protection by trade mark registration. Please refer to the companion booklet (***General Information Concerning the Registration of Trade Marks***), which is available from the Intellectual Property Office of Ireland.

It is not an infringement of the copyright in a two-dimensional work to make a three-dimensional object if the object would not appear, to a person who is not an expert in relation to such objects, to be a reproduction of the two-dimensional work; or if the lines, contours, colours, shape, texture or material of the product or its ornamentation are wholly or substantially functional.

Section 89 of the Industrial Designs Act, 2001 contains provisions that qualify copyright protection for designs that are exploited as products.

For further information regarding the protection of Industrial Designs please refer to the companion booklet (***General Information Concerning the Protection of Industrial Designs***), which is available from the Intellectual Property Office of Ireland.

How long does Copyright last?

The duration of copyright protection varies according to the format of the work. The table below sets out the term of protection applicable in respect of certain categories of works.

Category of work	Duration of protection
Literary, dramatic, musical and artistic works or original database	Copyright protection expires 70 years after the death of the author/creator irrespective of the date on which the work was first lawfully made available to the public or whether the work is ever lawfully made available to the public.
Films	Copyright protection expires 70 years after the last of the following dies, the director, the author of the screenplay, the author of the dialogue of the film, or the author of the music composed for use in the film.
Sound recordings	Copyright protection expires 70 years after the sound recording is made or if it is made available to the public then 70 years from the date it was made available to the public.
Broadcasts	Copyright protection expires 50 years after the broadcast is first transmitted.
Typographical arrangement of a published edition	Copyright protection expires 50 years after the date it is first made available to the public
Computer-generated works	Copyright protection expires 70 years after the date it is first made available to the public.
Copyright in Design	Copyright protection expires from the lifetime of the creator plus 70 years.



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Rights related to Copyright

In addition to ensuring that the copyright in a work is protected, legislation provides for the protection of related rights. Rights are not restricted to the creator of the work themselves but may also extend to third parties, such as, for example, a record company.

Rights in Performances

Performers, producers and broadcasters of works have what are known as related rights. The holders of related rights are entitled to remuneration (or royalties) for the use of their work as well as to determine how it can be used.

Moral Rights

Moral rights consist of both the paternity right which is the right to be identified as the author of a work, and the integrity right which is the right of the author to object to any distortion, mutilation or other modification of their work.

“Sui Generis”

“Sui Generis” (translates as “one of a kind” or “unique”). Any person who, after the expiration of the copyright in a work, lawfully makes available to the public for the first time a work which was not previously made available,

will benefit from rights equivalent to the rights of an author, other than the moral rights, for 25 years from the date on which the work is first lawfully made available to the public. This right was introduced to provide a financial incentive for publishing previously unpublished works.

Droit De Suite

Droit De Suite is a means of providing artists with a share of the increase in value of their art works when they are resold. When a work is auctioned subsequent to its original sale a percentage of the resale price is awarded to the original artist or creator of the work and not a percentage of increase in value.

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Exceptions to copyright

There are several exceptions which allow for the limited use of copyright works without the permission of the owner. In these cases, the author cannot prevent the copying of their work if that use is covered by one of these exceptions. The list below is not exhaustive but outlines some of the main exceptions:

Fair dealing

Under this exception you may copy limited extracts of a work provided the use is for non-commercial purposes which will not prejudice the interests of the copyright owner. Such use must also be accompanied by a sufficient acknowledgement identifying the author and title of the work. Copying all or a large amount of a work is not considered fair dealing.

Educational uses

The use of author's works for certain educational purposes is permitted. For example, educational establishments may make use of copyrighted materials in the course of instruction or for the purpose of examination without infringing copyright.

Libraries and Archives

Libraries and archives may copy and supply copies of works in certain situations without committing a copyright infringement. These institutions may also lend works without the payment of royalties.

Assigning & licensing rights

Copyright owners can assign or licence their rights. Assigning rights mean someone else becomes the owner; licensing means another person can use the copyright material, but the owner remains the same. In Irish law, the assignment of copyright in a work must be effected in writing and signed by the person assigning the copyright.

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Orphan Works

Orphan Works are works such as books, films, newspaper articles and other creative material that are protected by copyright, but whose owner cannot be found or contacted to obtain permission to use them. The works may be part of collections held by Beneficiary Organisations such as libraries, museums, archives, film and audio heritage institutions and public service broadcasting organisations.

The EU Directive on Orphan Works sets out common rules for the use of Orphan Works by cultural organisations for the purpose of digitising those works for non-commercial purposes without infringing copyright. Following the completion of a thorough search to establish either ownership or the orphan nature of the work(s), any organisation wishing to register an Orphan Work in the Orphan Works Database must first apply online to the EUIPO to be registered as a “Beneficiary Organisation.”

- **Diligent Search Tool**

The EnDOW Project (a collaborative project funded by the European Commission) has created the **Diligent Search Tool**, a platform that enables users with no specialised legal knowledge to carry out diligent searches on behalf of cultural heritage institutions. The tool is available for searches in 20 jurisdictions in the European Union. Further information is available at this link: <http://diligentsearch.eu/diligent-search-tool/>

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Infringement and Enforcement of Copyright

The illegal use of copyright is referred to as infringement. It is the responsibility of the creator of the work to protect their copyright.

Creators can defend their creative works by bringing copyright infringement claims to the relevant Circuit or District Court. Legislation provides for both civil liability and criminal convictions. Copyright legislation also allows for

civil search and seizure procedures which enhance the effectiveness of civil remedies.

The Office cannot provide legal advice in relation to Copyright matters. Copyright owners should seek professional advice with regard to the options and the remedies available where perceived infringement of their work occurs.

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Irish Copyright legislation

There have been 4 significant pieces of Irish legislation in recent times.

- **Copyright and Related Rights Act**

The Copyright and Related Rights Act, 2000 came into effect from 1 January 2001. The general objectives of the Act were to put in place a modern, effective, efficient, technology-neutral regime of statutory protection for copyright and related rights, including provision for civil remedies and criminal penalties.

- **European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2014.**

The European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2014 came into effect from 10 April 2016. These Regulations incorporate into Irish law an EU Directive relating to the collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market. This is intended to benefit rights holders, commercial users of copyright content and consumers through conversion into National laws by all EU Member States. Member States must establish a national competent authority to monitor compliance and impose sanctions where necessary. The Controller of Intellectual Property is the competent authority in Ireland for the purposes of the regulations.

- **Copyright and Other Intellectual Property Law Provisions Act, 2019**

The Copyright and Other Intellectual Property Law Provisions Act, 2019 came into effect from 26 June 2019. The purpose of the Act is to modernise the copyright regime in Ireland by making better provision for copyright and other intellectual property (IP) protection in the digital era and to enable rights holders to better enforce their IP rights in the courts

- **Directive (EU) 2019/790 of the European Parliament and of the Council on Copyright and Related Rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC.**

The EU Directive on Copyright was negotiated and agreed under the Digital Single Market strategy. The Directive provides a framework for the creation of modern European copyright legislation to take account

of technological developments in the digital age while continuing to ensure that creators are remunerated for their creative efforts. It allows for wider access to and use of copyright protected works benefitting the creative sectors, press publishers, researchers, educators, cultural heritage institutions, and citizens.

Copyright legislation may be obtained from the Government Publications Call Centre at 076 1106 834, via email at publications@opw.ie or may be consulted online at the [IPOI website](#).

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Recent significant changes to Irish Copyright law (as a result of the 2019 Copyright & Related Rights Act)

- The extension of the existing copyright deposit provisions relating to books to facilitate the creation of a Digital Deposit on a voluntary basis.
- Allowing libraries, archives and educational institutions to make a copy of a work in its collection for preservation purposes and for catalogues for exhibitions etc.
- The author of “soundtracks accompanying the film” is now deemed to be the producer and the principal director.
- The concept of work for the purpose of infringement now includes information embedded or otherwise incorporated into the work, for example, it is an infringement to tamper with the metadata associated with a photographic work.
- Improved access to the Courts system for intellectual property claims, so that creators such as musicians, authors and photographers can better defend their creative works by bringing lower value copyright infringement claims to the Circuit and District Courts within the monetary jurisdiction of those courts.

A number of exceptions/extensions to exceptions are provided for as follows:

- Creating a new exception for use of copyright works to allow for caricature, satire and parody without infringement of the material.
- Extension of the existing copyright exception for persons with a disability, to allow them to make a personal copy of a work modified for their special needs, and to allow designated bodies to make multiple copies of works modified to meet the special needs of persons with a disability.
- Extension of the existing copyright exceptions for education, to facilitate

greater use of technology and to provide education by means of distance learning and education over the internet, in line with the changing provision of education and training in Ireland.

- Extension of the existing copyright exceptions for Text and Data Mining copyright to promote non-commercial research that will facilitate the increased use of these important research techniques.
- Extending the concept of fair dealing in copyright works for purposes of news reporting.

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Register of Copyright Licensing Bodies

The Controller of Intellectual Property has several functions concerned with the registration of copyright licensing bodies, references and applications relating to licensing schemes operated by licensing bodies and the resolution of disputes regarding the payment of royalty amounts in relation to public performances of sound recordings.

The Controller maintains a register of copyright licensing bodies which contains information prescribed under the Act, including details of the scale of charges to be levied and the class of rights holders represented by the licensing body. Details of their registrations are available on the Intellectual Property Office of Ireland website www.ipoi.gov.ie.

Copyright licensing bodies –also known as collective management organisations (CMOs) or independent management agencies (IMEs) – act on behalf of their members and negotiate or grant copyright licences which authorise the terms of use of a work of more than one copyright owner.

The principal role of the Controller is to decide, where the parties cannot agree between themselves, the terms and conditions of licences offered by, or licensing schemes operated by, collective licensing bodies in the copyright and related rights area.

In addition, the terms of a licensing scheme proposed to be operated by a licensing body may be referred to the Controller for determination, by the organisation which claims to be representative of persons who claim that they require licences.

Furthermore, anyone who considers that they have unreasonably been refused a licence by a collecting society or considers the terms of an offered licence to be unreasonable may refer the matter to the Controller.

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Useful websites for copyright owners

Website	Related Subject
www.wipo.int/sme	Intellectual property issues from a business perspective
www.wipo.org	World Intellectual Property Organisation
www.ipoi.gov.ie	Intellectual Property Office of Ireland
www.cai.ie	The Copyright Association of Ireland
www.libraryassociation.ie	The Library Association of Ireland
enterprise.gov.ie	Intellectual Property Unit, Dept of Enterprise, Trade & Employment
diligentsearch.eu	EnDow Diligent Search Tool
www.wipo.int	WIPO Proof service

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Contact Details

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For Office opening hours please check the “[Contact Us](#)” webpage .

