

Copyright Q & As Tutorial Series Transcript

[How does copyright work: When, who, how long?](#)

Hi, I'm Copyright Cate. Welcome to the Copyright Q&As tutorial series.

In this tutorial we examine the broad question of how the copyright system works by looking at when copyright protection begins for a new creation, who owns copyright in a new creation, and how long copyright protection lasts.

A companion tutorial looks at the related issues of whose law applies when you use a work created in a different country, and exceptions to copyright infringement.

On completion of this tutorial you will be able to:

- state whether any formalities are required in order to be a copyright owner,
- identify who owns copyright in a new work generally and in employment situations, and
- state the duration of copyright protection in Canada.

If you create something that meets the requirements for copyright, you may wonder when does copyright protection begin? The answer is: immediately upon creation. If you compose an original song, sketch an original drawing, or write an original poem, you automatically own copyright as soon as the work is created.

No formalities are required, because Canada is a member of the Berne Convention, the world's oldest copyright treaty adopted in 1886. All Berne Convention countries must ensure their copyright laws provide automatic protection without any conditions such as placing the copyright symbol on a new creation or applying for copyright registration.

That said, copyright owners can choose to register their copyrights through the Canadian Intellectual Property Office. Registering copyright in a work or other subject-matter doesn't involve any ownership verification process and does not strengthen an owner's copyrights. However, registering a copyright create a presumption of valid ownership, which can be useful in some legal actions.

The Canadian Copyright Act says the initial owner of copyright in a work is the "author." Often an author is an individual creator. But the Act also says

if an author creates a work as part of his or her duties as an employee, the employer owns the copyright unless there is an agreement to the contrary.

In addition to individuals and employers, there is a third kind of copyright owner, the Crown, or in other words, the government. The Copyright Act says,

"where any work is . . . prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, belong to Her Majesty."

As for a performer's performance, sound recording, or broadcast signal, the Act says the owner of copyright is the performer, the sound recording maker, or the broadcaster, respectively.

Keep in mind, though, that only authors or performers who are individuals can own moral rights. Moral rights in a work or performer's performance cannot be transferred to another individual or to an employer or government department although they can be waived.

You might assume that copyright lasts forever, but in fact the duration of copyright is limited. The protection period granted by the world's first copyright act, the Statute of Anne, was 14 years for new books, and 21 years for books already printed at the time the Statute was enacted.

In general, the minimum duration of copyright for Berne Convention countries, which includes Canada, is the life of the author plus 50 years. When the author isn't known or is not an individual, in most cases copyright in Canada lasts for 50 years after the work or other subject-matter is created.

One exception to this general rule is sound recordings. A 2015 amendment to the Copyright Act provides that if a sound recording is published before copyright expires, copyright lasts for 70 years after first publication or 100 years after first fixation, whichever is earliest.

Remember, though, that the term of copyright for a work whose author is known will always hinge on the length of the author's life, even if the author assigned the copyright to another person.

Additionally, when a work is jointly authored by two or more authors and their identities are known, copyright lasts for the life of the last surviving author plus 50 years.

It's worth noting that a number of countries, including the U.S., European Union countries, and Australia, have gone beyond the Berne Convention minimum to protect copyright in works for life plus 70 years.

Thanks for viewing this tutorial in our Copyright Q&As series. You can check out the Sources used in this tutorial as well as Further Information if you'd like to find out more about copyright.