

Australian Copyright Council

Table of contents for book title

Following is the table of contents for one of our book titles. To order a book:

- go to www.copyright.org.au and click “Order Form” to download an order form
- email, fax or post us your contact details, payment details and the book title or number:
 - sales@copyright.org.au
 - fax to +61 2 9698 3536
 - post to 245 Chalmers Street Redfern NSW 2016 Australia
- contact Customer Service on sales@copyright.org.au or tel +61 2 9699 3247

Australian Copyright Council
245 Chalmers Street Redfern, NSW 2016 Australia ACN 001 228 780
Telephone: 61 2 9318 1788 Fax: 61 2 9698 3536 Email: info@copyright.org.au
www.copyright.org.au

Book 72v3

Theatre & Copyright

Table of contents

1.	INTRODUCTION	1
1.1.	What is copyright?.....	1
1.2.	Why is it relevant to you?	1
1.3.	What does copyright protect?.....	2
1.3.1.	Works	2
1.3.2.	Other subject matter	2
1.4.	Composite works	3
1.5.	Requirements for protection	4
1.5.1.	The copyright notice	5
1.5.2.	The need to document your work	5
1.6.	Legal rights of copyright owners	6
1.7.	Duration of copyright	7
1.7.1.	The general rule	7
1.7.2.	Anonymous & unpublished works	8
1.7.3.	Photographs	8
1.7.4.	Films	8
1.7.5.	Published editions	9
1.7.6.	The public domain	9
1.7.7.	Duration periods for different materials	10
2.	OWNERSHIP	11
2.1.	The general rule is that the author owns copyright	11
2.1.1.	Who is an “author”?	11
2.2.	Exceptions to the general rule	13
2.2.1.	Works made by employees	13
2.2.3.	Employees of newspapers, magazines & other periodicals	13
2.2.4.	Certain commissioned works, films & sound recordings	14
2.2.5.	Works made for the government	14
2.2.6.	Funded projects	15
3.	A GUIDE TO CLEARANCES	16
3.1.	Infringement of copyright	16
3.1.1.	How much of the work has to be used?	16
3.1.2.	Authorisation	16
3.1.3.	Why is permission necessary?	17
3.1.4.	A checklist: identifying when permission is necessary	17
3.2.	Some special cases.....	19
3.2.1.	Facts & information	19
3.2.2.	Similar works.....	19
3.2.3.	Satires & parodies	19
3.2.4.	Characters	20
3.2.5.	Themes & incidents.....	20
3.3.	Exceptions to infringement.....	20
3.4.	Some exceptions you might come across	21
3.4.1.	Fair dealing: research, criticism and reporting the news	21
3.4.2.	Recording rehearsals	22
3.4.3.	Performance in the course of educational instruction.....	22
3.4.4.	Reading or recitation in public or for a broadcast	22
3.4.5.	Acts done for the services of the Crown	22
3.4.6.	Certain uses of some artwork	23

3.5.	Statutory licences	23
3.6.	Where to get permission – a brief guide	23
3.6.1.	Music	24
3.6.2.	Performing & broadcasting music	24
3.6.3.	Reproducing music	25
3.6.4.	Dubbing music on tape or film.....	25
3.6.5.	Commissioned music	25
3.6.6.	Published literary & dramatic works.....	25
3.6.7.	Artwork	26
3.6.8.	Film & video	26
3.7.	Difficulty with locating the copyright owner	27
3.8.	Other general points	27
3.8.1.	Where the copyright owner is a corporation	27
3.8.2.	Where a company has gone out of business	27
3.8.3.	The phone book & industry directories	27
3.8.4.	Materials originating overseas	27
4.	DEALING WITH COPYRIGHT	28
4.1.	Assignments and licences	28
4.1.1.	Assignment	28
4.1.2.	Exclusive licence.....	28
4.1.3.	Non-exclusive licence	28
4.2.	Other ways of transferring copyright.....	29
4.3.	What is a contract?.....	29
4.3.1.	Requirements for a legally binding contract.....	29
4.3.2.	Some general points about contracts	30
4.3.3.	Matters to be considered in copyright contracts generally	30
4.3.4.	Some other matters which may be included in contracts	32
4.4.	Some suggestions for particular materials	33
4.4.1.	Published dramatic works	33
4.4.2.	Commissioned dramatic works.....	34
4.4.3.	Writers-in-residence.....	35
4.4.4.	Group devised works	35
4.4.5.	Contracts dealing with artwork	36
4.4.6.	Music contracts.....	37
4.4.7.	Recording the performance	37
5.	PERFORMERS' RIGHTS	39
5.1.	Overview	39
5.2.	Performances which are covered by the Act	39
5.2.1.	The type of performance	39
5.2.2.	Connecting factor to Australian law.....	40
5.2.3.	Date of performance	40
5.3.	Prosecuting an “unauthorised use” of a performance	41
5.3.1.	“Unauthorised use” – civil rights of action	41
5.3.2.	Criminal offences.....	41
5.3.3.	How long do the rights last?	42
5.3.4.	Which acts are caught – the date of the unauthorised act	42
5.4.	Exempt recordings (when permission is not necessary)	42
5.4.1.	Exempt “indirect” recordings.....	42
5.4.2.	Recordings which are exempt whether “direct” or “indirect”	43
5.4.3.	Recordings made for the purpose of broadcasting.....	43
5.4.4.	Recordings made in reliance on a misrepresentation.....	43
5.5.	Reform	43
6.	SOME RELATED AREAS OF LAW	45

6.1.	Media Entertainment & Arts Alliance Awards	45
6.2.	Protection of ideas – confidential information	45
6.3.	Protection of names & titles	46
6.4.	Protection of goodwill & reputation	47
6.4.1.	Character merchandising	47
6.5.	Protection of artwork – design registration	47
6.6.	Protection of reputation & character	48
6.7.	“Moral” rights – attribution & integrity	48
7.	WORKING WITH COPYRIGHT	50
7.1.	Identify the copyright issues at the outset – a checklist	50
7.1.1.	Who is authorised to contract on behalf of the group?	50
7.1.2.	Whose responsibility is it to clear copyrights?	50
7.1.3.	Identify the material you want to use	50
7.1.4.	Is permission to use pre-existing material is required?	51
7.1.5.	How do you get permission?	51
7.1.6.	Has original material created by the group been documented?	51
7.1.7.	Who is going to own copyright in any of the material the group creates as a collaborative effort?	51
7.1.8.	Have you created a derivative work (that requires permission)?	51
7.1.9.	Have you received government funding?	51
7.1.10.	Sets & costumes	51
7.1.11.	Publicity	52
7.1.12.	Articles from newspapers & magazines	52
7.1.13.	Programmes & posters	52
7.1.14.	Dance	52
7.1.15.	Music	52
7.1.16.	Performers	53
7.1.17.	Directors	53