
3. How you get copyright

You get copyright by expressing ideas or information in one of the forms of expression covered by the Copyright Act. These forms include words (such as in novels, plays, instruction manuals and reports), images (such as drawings, sculptures and photographs), music, computer programs and audiovisual recordings (such as films). Copyright applies automatically as soon as the form of expression is recorded or “fixed” in some way – for example, written down, saved to a computer disk, photographed or recorded on a CD or DVD.

No registration

There is no procedure that has to be carried out: no registration, no requirement to pay a fee. International copyright treaties require member states, including Australia, to give copyright protection without any formalities such as registration. Copyright is therefore unlike some other forms of intellectual property, such as patents and trade marks, which do have a registration process.

From time to time, private companies in Australia offer to “register” copyright materials for a fee. If you are considering “registering” your work with such a company, first carefully assess what benefits, if any, the company provides in return for payment of the fee. If your work is eligible for copyright protection, it is automatically protected. If it is not eligible, payment of a fee cannot give it copyright protection. The “registration” may be evidence that a work existed at a particular time, but this issue (if it is ever in dispute) can be established by other types of evidence, such as oral (spoken) evidence.

Most composers and songwriters are members of APRA (Australasian Performing Right Association). APRA is a non-profit organisation that collects and distributes copyright fees for public performance, broadcasting and internet communication of music. Membership is free. When they join APRA, composers and songwriters register their compositions and songs with APRA. This registration doesn’t create copyright or change the copyright status of the material. What it does is enable APRA to collect and distribute copyright fees for those registered compositions.

The Australian Writers Guild (AWG) offers, among other things, a script registration service for members. Again, registering your material in this way doesn’t give you any greater copyright protection than you get as soon as your work is written down (or recorded in some other way). It does not create copyright in your material. It simply provides evidence that the material existed at the date it was registered with the AWG.

Slim Dusty’s “lost” songs discovered in old register

In early 2007, the National Archives announced that it had uncovered three “lost” songs written by country singer David Gordon Kirkpatrick (pen name Slim Dusty) when he was 15. He had sent the songs to the Australian Copyright Office in 1943. The Copyright Office operated in Australia from 1912 to 1966. It was a voluntary register; it was not necessary to lodge works with the Office to get copyright protection. The records from the Copyright Office are held by the National Archives.⁸

Requirements for copyright

To work out if something is protected by copyright, you need to ask the following questions:

- Is it one of the forms of expression listed in the Copyright Act?
- Has it been recorded or “fixed” (for example, written down or saved in a digital file)?
- Is it the result of some skill and effort, and not merely copied from somewhere else?

A further requirement is that the material was first published in a country which is a party to an international copyright treaty, or that the creator was a national of such a country. Most countries are a member of one or more copyright treaties, so it is extremely rare that a work first published overseas, or by an overseas creator, is not protected.