

# Duration of Copyright

This fact sheet is for people who want to work out whether copyright has expired for copyright material under Australian law.

Our [Copyright Essentials](#) book provides in-depth guidance on the provisions of the *Copyright Act 1968* (Cth) (Copyright Act) set out in this fact sheet. It is available for purchase from our website: [copyright.org.au](http://copyright.org.au). Information about our education programs is available [here](#).

The fact sheet gives general introductory information about copyright. If you need to know how the law applies in a particular situation, we recommend that you seek legal advice.

## Key points

- In Australia, there is no register of copyright material, and no list of what material is in the 'public domain'. Sometimes, you will need to make some enquiries and do some research to find out whether something is still protected by copyright.
- Items such as films or sound recordings have underlying works which are protected separately copyright – for example, the film's screenplay. You may need to check that **all** the copyrights have expired before you can use the item.
- The rules on copyright duration have changed over time, so different duration rules may apply to different copyright materials.

## 1. Copyright and related rights in general

Copyright law in Australia is set out in the *Copyright Act 1968* (Cth) and in court decisions that have interpreted and applied that legislation.

The Copyright Act lists categories of material which are protected by copyright, including:

- **literary works**, such as stories, poems, song lyrics and compilations
- **dramatic works**, such as plays, film scripts, mime and choreography
- **musical works**, such as notated music
- **artistic works**, such as cartoons, drawings, photographs, models and sculptures
- **sound recordings**, separate to copyright in the literary and musical works that are recorded
- **cinematograph films**, the recording of moving images and accompanying sounds
- **broadcasts**, protected separately from the content of the broadcast such as music, films, and

- **published editions**, the typographical arrangement is protected separately from copyright in the works in the edition, such as anthologies of poems, illustrations, or music.

**You do not need to register for copyright protection in Australia.** If something can be classified in one of the categories of copyright material, it is automatically protected as soon as it is fixed in material form. For example, written down, drawn, photographed, recorded on audio or video tape, or saved to a computer hard drive.

During the copyright period, you generally need permission to use copyright material in particular ways – for example, to make a copy, or to upload to a website.

Once copyright has expired, anyone may use that material without needing copyright clearances or permissions. Material in which copyright has expired is sometimes referred to as being in the **public domain**. See **2. Duration of copyright**, below.

For information on what is protected by copyright, and what copyright protection means, see our fact sheet [An Introduction to Copyright in Australia](#). When you use copyright material, you also generally need to attribute the creator, and not treat the material in a derogatory way. For information on the duration of **moral rights**, see our fact sheet [Moral Rights](#).

There are also provisions in the Copyright Act which generally require you to get consent from performers to record, broadcast or communicate a live performance. Consent may also be required to deal with an unauthorised recording of a performance, and to use a sound recording on a soundtrack. For information on the duration of **performers' rights**, see our fact sheet [Performers' Rights](#).

## 2. Duration of copyright

Because the rules on duration of copyright have changed over time, different rules apply to different types of copyright material. The current general rule is that copyright in works lasts for the life of the author, plus 70 years after the calendar year in which the author died, subject to the specific rules outlined below.

If copyright has expired, then the material becomes part of the 'public domain', and is free for anyone to use, for any purpose. The phrase 'public domain' has a specific meaning under copyright law and is used to describe material that is no longer protected by copyright (or material that is not copyrightable).

### 2.1 Literary, artistic, dramatic and musical works

Generally, copyright in a literary, artistic, dramatic or musical work, lasts for the life of the creator plus 70 years.

For literary, dramatic, musical or artistic works (excluding photographs), copyright has expired if the work was published, and the author (the creator) died before 1 January 1955. Publication is relevant because previous duration rules distinguished between published and unpublished works. The distinction between published and unpublished works was only removed in 2019.

The position in relation to photographs is different as, for the period 1 May 1969 to 31 December 2004, the duration of copyright in photographs was calculated not by reference to the life of the author/creator (as for other works) but from the date of publication – specifically, 50 years from the date of publication. However, with effect from 1 January 2005, the duration of copyright for all published works including photographs was extended and made consistent – that is, life of the author/creator plus 70 years after the calendar year in which they died. See our fact sheet, [Photography & Copyright](#).

Due to changes to the copyright duration rules in 2005, copyright has already expired:

- in a literary, dramatic, musical or artistic work (other than a photograph) if it was published before 1 January 1955 and the creator also died before then
- in a photograph, if it was made before 1 January 1955.

For example, the Australian author Stella ('Miles') Franklin died in 1954. Under the previous rules, copyright in those of her works which were published during her lifetime expired 50 years from the end of the year in which she died – that is, at midnight on 31 December 2004. The copyright in these works was not revived as a result of the 2005 changes.

Up until 31 December 2018, the duration of copyright in **unpublished works** was, in theory, indefinite. This changed as a result of legislative amendments that came into effect on 1 January 2019 introducing a new standard term of protection for all copyright materials: the life of the creator, plus 70 years. This new standard does not differentiate between published and unpublished materials.

## 2.2 Sound recordings

Sound recordings are protected by their own copyright, separate to copyright in the work that is being recorded, such as a song or a script. So, even if copyright in one element of the recording has expired, copyright in another element might still be alive.

Copyright in the sound recording itself, lasts for 70 years from the year it was first made public. Because of the 2005 changes, copyright in sound recordings first published before 1955 has expired.

## 2.3 Cinematograph films

Until 1969, cinematograph films weren't protected by copyright as a distinct category, rather, the components of the film were protected by their own copyright.

Working out whether a film made before 1969 is still protected by copyright can therefore be complex. For instance, a film might include the following copyright material, with different expiry dates:

- photographs that make up the footage – copyright in such footage has expired if the footage was taken before 1955

- drawings which make up the footage (e.g. cartoon stills) – copyright in such footage has expired if both the footage was published before 1955 and the artist/s died before then.
- a ‘dramatic work’ depicted in the footage – if the creators of the work (usually the director, editor or cinematographer) died before 1955, and the film was released before 1955, then copyright in the dramatic work has expired
- sounds recorded on the soundtrack (a sound recording) – copyright in the recording has expired, if the film was made before 1955
- a script (literary work), music that has been recorded, including the score (musical works), and/or ‘artistic works’ such as paintings that appear in the film – copyright in these works has expired, if the creator died before 1955.

Therefore, some films made before 1955, are still protected by copyright if some of their component parts are still protected by copyright. For example, if the film’s director died in 1940, but the script writer died in 1970, then since copyright in the script lasts for the life of the author plus 70 years, the script (and the film) are protected by copyright until 2040.

From 1969 onwards, films are protected by copyright in their own right and that copyright lasts for 70 years from the year of first publication. However, copyright works recorded in the film, such as scripts, music and sound recordings, still remain protected by their own separate copyrights.

## 2.4 Broadcasts

In Australia, broadcasts were not protected by copyright until 1 May 1969. So, broadcasts made before 1 May 1969 are in the public domain.

For broadcasts made after 1 May 1969, copyright lasts for 50 years from the year of broadcast. The 2005 changes did not change the rule on duration for broadcasts.

## 2.5 Published editions

Published editions are protected by copyright, on the policy ground that editors should be rewarded for the skill and effort they exercise in selecting and arranging the works they publish. However, the term of protection for a published edition is limited, lasting for just 25 years from the year of first publication. The 2005 changes did not change this rule.

## 2.6 Duration of copyright in government works

If the copyright owner is the Commonwealth or a state or territory government, copyright lasts for 50 years from the year in which the material was made, or the end of the year of first publication.

Note that this rule applies to copyright material that is owned by the government, and also applies to material that **would have been** owned by the government unless there’s an

agreement to the contrary. For more information about the government and copyright, see our fact sheet [Government: Commonwealth, State & Territory](#).

### 3. Working out copyright duration

The tables<sup>1</sup> on the following pages will help you work out both whether or not copyright in a particular item has already expired, and, if not, for how much longer it will be protected.

**Table 1** sets out duration in material made on or after 1 January 2019, except material in which a state, territory or Commonwealth government owns copyright (or would own copyright, but for an agreement to the contrary).

**Table 2** sets out the rules for all material made before 1 January 2019, except material in which a state, territory or Commonwealth government owns copyright (or would own copyright, but for an agreement to the contrary).

**Table 3** sets out the rules for duration of copyright in government material.

**Table 4** sets out when copyright expires in Australia for the different types of copyright material – that is, when different copyright materials become part of the public domain.

Note that material such as music, scripts and text included within a film, sound recording, broadcast or published edition may be separately protected, and you will have to apply the relevant duration rules to work out if copyright in these elements has also expired.

**Table 1: General rules for material made on or after 1 January 2019 (except where a government owns/would have owned copyright) ([Source](#))**

MATERIAL	FACTORS AFFECTING DURATION	DURATION IS
<b>Works where author known</b>	N/A	Life of author + 70 years
<b>Works where author unknown</b>	Not made public within 50 years of being made	Date made + 70 years
	Made public within 50 years of being made	Date first made public + 70 years
<b>Sound recordings and cinematograph films</b>	Not made public within 50 years of being made	Date made + 70 years
	Made public within 50 years of being made	Date first made public + 70 years

<sup>1</sup> These tables are based on the tables contained in the Explanatory Memorandum to the Copyright Amendment (Disability Access and Other Measures) Bill 2017.

**Table 2: General rules for material made before 1 January 2019 (except where a government owns/would have owned copyright) (Source)**

Material	Factors affecting duration	Copyright expired if	Otherwise, duration is
<b>Literary, dramatic, musical works, engravings</b>	Made public before creator's death	Creator died before 1 January 1955	Life of creator + 70 years
	Made public after creator's death, but before 1 January 2019	Made public before 1 January 1955	Date first made public + 70 years
	Not made public before 1 January 2019	Author died before 1 January 1948	Life of author + 70 years
<b>Computer programs</b>		Author died before 1 January 1955	Life of author + 70 years
<b>Artistic works (other than photographs or engravings)</b>		Author died before 1 January 1955	Life of author + 70 years
<b>Photographs</b>		Made before 1 January 1955	Life of author + 70 years
<b>Works where author unknown &amp; works made by international organisations</b>	Made public before 1 January 2019	Made public before 1 January 1955	Date first made public + 70 years
	Never made public	Made before 1 January 1948	Date made + 70 years
	Made public on/after 1 January 2019, but not within 50 years of date made	Made before 1 January 1948	Date made + 70 years
	Made public on/after 1 January 2019, and within 50 years of date made	Made before 1 January 1949	Date first made public + 70 years
<b>Sound recordings</b>	Made public before 1 January 2019	Made before 1 January 1955	Date first made public + 70 years
	Never made public	Made before 1 January 1955	Date made + 70 years
	Made public on/after 1 January 2019, but not within 50 years of date made	Made before 1 January 1955	Date made + 70 years
	Made public on/after 1 January 2019, and within 50 years of date made	Made before 1 January 1955	Date first made public + 70 years
	Made public before 1 January 2019	N/A	Date first made public + 70 years

<b>Cinematograph films (made on or after 1 May 1969)<sup>2</sup></b>	Never made public	N/A	Date made + 70 years
	Made public on/after 1 January 2019, but not within 50 years of date made	N/A	Date made + 70 years
	Made public on/after 1 January 2019, and within 50 years of date made	N/A	Date first made public + 70 years
<b>Published edition</b>			Date edition first published + 25 years

**Table 3: Material made, or first published, by a Commonwealth, State or Territory before, on, or after 1 January 2019 (Source)**

**Note:** These rules don't only apply where a government is the copyright owner; they also apply where a government that would have owned copyright under the general rules of government-owned copyright reached some other agreement with the creator or maker of the material.

MATERIAL	COPYRIGHT EXPIRED IF	OTHERWISE, DURATION IS
<b>Works made or first published by a Commonwealth, State or Territory</b>	Made before 1 January 1969	50 years after the calendar year in which the work was made.
<b>Sound recordings</b>	Made before 1 January 1969	Date made + 50 years
<b>Cinematograph films (made on or after 1 May 1969)</b>	N/A	Date made + 50 years

**Table 4: Works in the public domain (i.e. out of copyright) in Australia**

**Note:** periods of copyright protection vary from country to country, and a work that is in the public domain in Australia may still be protected by copyright in other countries.

MATERIAL	WHEN COPYRIGHT HAS EXPIRED (i.e. WHEN MATERIAL IS IN THE PUBLIC DOMAIN)
<b>Written Works</b>	Copyright in a <b>published</b> written work has expired if it: <ul style="list-style-type: none"> <li>was published before 1955 AND the author died before 1955, or</li> <li>was published anonymously or under a pseudonym before 1955 AND the author cannot be identified on reasonable inquiry, or</li> </ul>

<sup>2</sup> Films made before 1 May 1969 are regarded as dramatic works if the arrangement, the acting form or the combination of incidents represented gives the work an original character. Sound recordings accompanying films made before 1 May 1969 are separately protected by their own copyright. Underlying works, such as screenplays and music, are also protected by their own copyright.

	<ul style="list-style-type: none"> <li>was made for, or first published by, a government (Commonwealth, State or Territory), and published more than 50 years ago.</li> </ul> <p>A work is 'published' in this context if copies have been distributed, or it has been publicly performed or broadcast.</p> <p>Copyright in written works that were <b>unpublished</b> as of 1 January 2019, such as unpublished letters, will expire 70 years after the death of the author.</p> <p><b>Translations:</b> If the work has been translated, the translation is protected by its own copyright. Copyright in the translation will have expired if the translation was published before 1955 AND (unless the translation was first published anonymously or under a pseudonym and the translator can't be identified) if the translator died before 1955.</p> <p><b>Photocopying:</b> there can be a separate copyright in an edition of a written work, which can be infringed by photocopying and similar facsimile copying. Copyright will have expired if the edition you are using was first published before 1983.</p>
<p><b>Musical Works</b></p>	<p>Copyright in a <b>published</b> musical work has expired if it:</p> <ul style="list-style-type: none"> <li>was published before 1955 AND the composer died before 1955, or</li> <li>was published anonymously or under a pseudonym before 1995 AND the composer cannot be identified on reasonable inquiry, or</li> <li>was made for, or first published by, a government (Commonwealth, State or Territory), and published more than 50 years ago.</li> </ul> <p>A work is 'published' in this context if copies have been distributed, it has been publicly performed or broadcast, or records of it have been sold or offered for sale.</p> <p>Copyright in musical works that were unpublished as of 1 January 2019 will expire 70 years after the death of the composer.</p> <p><b>Music with lyrics:</b> If the musical work has lyrics, the lyrics are separately protected by their own copyright. Copyright in the lyrics will have expired if the lyrics were published before 1955 AND (unless the lyrics were first published anonymously or under a pseudonym and the lyricist can't be identified) the lyricist died before 1955.</p> <p><b>Arrangements:</b> If the music has been arranged, the arrangement is usually separately protected by copyright. Copyright in the arrangement will have expired if the arrangement was published before 1955 AND (unless the arrangement were first published anonymously or under a pseudonym and the arranger can't be identified) the arranger died before 1955.</p> <p><b>Recordings of music:</b> A recorded performance of a musical work is separately protected by copyright. If the recording was made before 1955, the copyright has expired.</p> <p><b>Copying printed music:</b> there can be a separate copyright in an edition of notated music, which can be infringed by photocopying and similar facsimile' copying. Copyright will have expired if the edition you are using was first published before 1983.</p>
<p><b>Artistic Works</b></p>	<p><b>Engravings</b> (works from which prints can be made, such as etchings, lithographs, woodcuts, prints) published before 1955 AND, if the engraver is identifiable, the engraver died before 1955, are in the public domain.</p> <p><b>Photographs</b> All photographs taken before 1955, whether published or not, are in the public domain.</p> <p><b>Other artistic works:</b></p> <ul style="list-style-type: none"> <li>first published anonymously or under a pseudonym before 1955, PROVIDED the artist cannot be identified on reasonable inquiry, or</li> <li>whose author died before 1955, whether published or not, or</li> <li>made more than 50 years ago, if made for, or first published by, a Commonwealth, state or territory government</li> </ul>



<p><b>Sound recordings</b></p>	<p>Most sound recordings are of performances of copyright works, such as a musical work, a play, a speech or a novel. You therefore need to consider the copyright in the underlying works as well as that in the recording.</p> <p>Copyright in the recording itself has expired if the recording was made before 1955. If the recording is of a musical performance, see musical works above. If the recording is of a play, a speech or a book, see written works above.</p> <p>Copyright in the recording made for, or first published by, a Commonwealth, state or territory government, has expired if it was made more than 50 years ago.</p>
<p><b>Newspapers, magazines &amp; journals</b></p>	<p>Newspapers, magazines and journals usually contain works by many different authors (creators). These works include news reports, opinions, letters to the editor, cartoons and photographs.</p> <p>The period of copyright protection is, in most cases, measured from the death of the author, even if the author did not own copyright. Each work may therefore have a different period of copyright protection. If the work was first published anonymously and the identity of the author cannot be ascertained on reasonable inquiry, then the period of copyright protection is measured from the year of publication (rather than the year of the author's death).</p> <p>Copyright in a newspaper has expired if:</p> <ul style="list-style-type: none"> <li>• the newspaper was published before 1955, AND</li> <li>• every author (other than a photographer) whose identity can be ascertained died before 1955.</li> </ul>
<p><b>Advertising posters &amp; brochures</b></p>	<p>Posters and brochures may contain more than one copyright work – for example, each photograph and illustration may be a separate copyright work, and the text may be another copyright work. The works may have different authors, but in most cases the authors will not be identifiable. If the work was first published anonymously and the identity of the author cannot be ascertained on reasonable inquiry, then the period of copyright protection is measured from the year of publication (rather than the year of the author's death).</p> <p>Copyright in a poster or brochure has expired if:</p> <ul style="list-style-type: none"> <li>• it was published before 1955, AND</li> <li>• any author (other than a photographer) whose identity can be ascertained died before 1955, OR</li> <li>• it was made more than 50 years ago, if made for, or first published by, a Commonwealth, state or territory government.</li> </ul>
<p><b>Film</b></p>	<p>Films made in or after 1955 are still protected by copyright, but working out whether copyright has expired in films made before that year is difficult because of changes to the law in 1969.</p> <p>For copyright purposes, the components of an old film (including raw footage, home movies, documentaries, cartoons and newsreels) might include:</p> <ul style="list-style-type: none"> <li>• the individual photos that make up the footage</li> <li>• the dramatic work outlined in the footage</li> <li>• the sounds as recorded on the sound track (a sound recording), and</li> <li>• any underlying work, such as script, artistic works, music and lyrics.</li> </ul> <p>In this context, a dramatic work exists where the arrangement, the acting form or the combination of incidents represented gives the work an original character. This dramatic work is distinct from any dramatic work comprised in the script or screenplay, but is more likely to exist in films with a screenplay (including silent movies and edited newsreels) than for unedited footage that doesn't outline a plot or story.</p>

	<p>Components of an old film will be in the public domain as follows:</p> <ul style="list-style-type: none"><li>• the photos that make up the footage – if the footage was taken before 1955</li><li>• the dramatic work outlined in the footage – if the creators of that work (probably the director or editor, but perhaps also the cinematographer) died before 1955 and it was published before that year</li><li>• the sound recording – if the film was made before 1955</li><li>• underlying works – see under musical works, written works and artistic works, above</li><li>• Made more than 50 years ago, if made for, or first published by, a Commonwealth, state or territory government.</li></ul>
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## Frequently asked questions (FAQs)

### What happens when copyright expires?

Once all copyright has expired, anyone can use that material without infringing copyright, and permissions are no longer needed. If a person is paying for the use of copyright material (for example, by royalties), there will be no basis in **copyright** law for continuing these payments. In some cases, however, they might have obligations under a **contract** to keep paying to use material.

Other laws may sometimes be relevant. For example, if copyright in a logo has expired but the logo is used as a trademark, reproducing the logo won't infringe copyright but may infringe the trademark.

### If copyright has expired, can you revive copyright by republishing it?

Once copyright has expired, it cannot be revived by subsequent publication or in any similar way. Copyright can only be renewed or extended if the parliament amends the Copyright Act (as it was obliged to do as part of its obligations under the AUSFTA).

A publisher who publishes an edition of a public domain work (such as the poems of John Keats) may own copyright in the typographical arrangement of that particular edition (and thus be able to prevent another publisher making an exact copy of that edition). However, the copyright in the work itself (in this case, the poems) is not revived by republishing; anyone can still reproduce all or parts of it.

### What does 'in the public domain' mean?

In Australia, the term 'public domain' refers to material in which copyright has expired. The term is also sometimes used in other countries to describe material that is excluded from copyright protection under the copyright law of those countries. For example, certain US government documents are not protected by copyright in the US, because of special provisions in US copyright law.

### Is there a list of works in the public domain?

We do not keep a list of public domain works, and we are not aware of such a list in Australia. Generally, if you want to know whether something is in the public domain, you need to apply the rules in the Copyright Act to that material. You may need first to find out

information such as who the creator was, when the creator died and whether the work was first published during the creator's lifetime.

### **Can I sell copies of material that has fallen into the public domain for a profit, or are there restrictions on benefiting from material in which copyright has expired?**

Once copyright has expired, you can reproduce and use that material as you wish, whether for a profit or otherwise. For example, you can publish a book containing John Keats' poetry; you can record someone reading a Jane Austen novel; and you can make postcards using Henri Matisse's artworks. In each case, you can sell these for profit. You will not, however, be able to stop anyone else doing the same, unless they are using something that you have created and in which you own copyright, such as the typesetting or layout or your sound recording.

### **Can I use a work that is still in copyright overseas, if copyright has expired here?**

If you are using material in Australia, then Australian copyright law applies. For example, if copyright in a photograph has expired in Australia because it was taken in 1926 or 1953, then you may reproduce it in a book in Australia. If, however, you wanted to print or distribute the book overseas, you would need to check that copyright in the photograph has expired each country under that country's laws. The same rules apply to electronic and online material in Australia.

### **How long does copyright last if a company is the copyright owner?**

For companies and other organisations other than government, duration of copyright is generally determined by reference to an individual creator's lifetime, even if that person never owned copyright (for example, because they created the material as an employee). There are **no** copyright duration rules that depend on how long a company lasts.

### **How do I work out whether something is published for copyright purposes?**

As set out in the duration tables, the event that triggers the copyright countdown is the publication of the material. In this context, something is published if copies have been made available to the general public, whether by way of sale or otherwise. (As noted in the tables, in some cases the countdown can also be triggered by the material being made public by being performed, broadcast or recorded and sold.)

The material has to have been made available with the permission of the copyright owner. If the material has been circulated without permission, or copies have been made by an educational institution, government or library relying on the Copyright Act, the material will not have been published.

The fact that something is held in the collection of a library or a public institution does not mean that it has been published in the sense relevant to duration of copyright.

### Further information and advice

We have a range of other fact sheets on specific topics and publish books that focus on particular interest groups. Check our website for information about our publications [here](#) and details of our seminar/webinar program [here](#).

An Australian Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in a fact sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries and members of our [affiliate organisations](#). For further information about the service, see [Legal Advice](#) on our website.

### Reproducing this fact sheet

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### About us

The Australian Copyright Council is an independent, not-for-profit, non-government organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries. Our objectives include:

- to assist creators and other copyright owners to exercise their rights effectively
- to raise awareness in the community about the importance of copyright
- to identify and research areas of copyright law which are inadequate or unfair
- to seek changes to law and practice to enhance the effectiveness and fairness of copyright
- to foster co-operation amongst bodies representing creators and owners of copyright.

The Australian Copyright Council acknowledges the Traditional Owners and Custodians of the lands on which our office is located, the Gadigal people of the Eora nation, and all Traditional Owners of Country throughout Australia. We pay our respects to all Elders past and present, and recognise their continuing great, creative and cultural expressions.



The Australian Copyright Council is assisted by the Australian Government through Creative Australia, its principal arts funding and advisory body.

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