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Irish Copyright Licensing Agency (ICLA)

ICLA is the collective management organisation for the text and still-image sector in Ireland. ICLA enables the use of copyright protected material by granting licences for copying, and print and digital use of published content. ICLA is a not-for-profit organisation, and the licensing revenue is paid out to authors, visual creators and publishers supporting them to create new works. ICLA's mission is to provide legal access to content through collective licensing and to represent rightsholders, ensuring they are remunerated when their work is used.

ICLA's role as the intermediary between users of works and rightsholders is based on mandates from authors and publishers and the registration as a licensing body with the Controller of Intellectual Property Office of Ireland in the Registry of Copyright Licensing Bodies.



WELCOME TO COPYRIGHT CLASSROOM!

The purpose of Copyright Classroom's educational materials is to inspire and encourage teachers and students to engage in creative work in a way that respects copyright.

In this guide, you will find basic information about copyright and the usage licences available for educational institutions. The educational material has been produced by the Irish Copyright Licensing Agency (ICLA) based on work developed by its sister CMO, the Finnish copyright organisation Kopiosto, as part of a project with a steering group consisting of the Finnish National Agency for Education, the Ministry of Education and Culture, and the educational sector's trade union OAJ. For Ireland the material has been adapted by ICLA to reflect the local legal and licensing framework. All the material has been developed by experts in education and copyright.



THE BASICS OF COPYRIGHT

What is copyright?

Copyright provides legal protection for creative work. Films, plays, music, books, comics, and artworks do not come into existence without a creator. Copyright gives the creator the right to control their own work – the result of their creative effort. The creator has the right to determine what they do with their work: whether they keep it, grant usage rights to it, or sell it and at what price. Creators benefit from selling their works and the right to use them. Copyright is a prerequisite for making a living from creative work and for the creation of new works and content.

What does copyright protect?

Copyright protects the appearance and expression of a work – the result of independent and original creative work.

The work can be literary, dramatic, musical, artistic, or oral. Works include books, newspaper articles, musical compositions, drawings, paintings, photographs, plays, sound recordings, films, television programmes, computer programs, databases, maps, buildings, and visual artworks.

Copyright does not protect the information in the work, its ideas, plot, or principles, only the way in which those underlying elements have been expressed and the method by which the work has been created. For example, you can use another person's artwork as a source of inspiration for your own painting, or, in your own writings, you can use similar plots and ideas as in an already existing book.

However, direct copying from another person's work is not allowed by law. You should always write your own text in your own words unless you have permission to copy verbatim extracts, and sources should always be acknowledged in accordance with good practice.

[CRRA Chapter 1]

Mow does copyright arise?

Copyright is automatically established as soon as a work is created. It is not necessary to register the copyright or use the © symbol for copyright protection to arise.

Copyright arises for the person who has created a work. A creator is always a physical person, and their age is not relevant. A student's work is also protected. For example, drawings and essays are protected regardless of the student's age or educational level. Using a student's work, such as publishing a drawing or text in an educational institution's newsletter or on their website, requires permission from the student. If the creator is underage, parental consent may also be required.

[CRRA Sec. 18]

Copyright symbol ©

The © symbol is an internationally recognised symbol used before the name of the creator or copyright holder in a work that is copyright protected. By using the copyright symbol, you can indicate who owns the copyright in the work. However, it is important to note that the absence of the copyright symbol or the word 'copyright' does not remove copyright protection from a work. Copyright is established, and protection begins, when the work is created, and no registration or other action is required.

There are no universally accepted formats for using the © symbol. The most common format is Copyright © [creator's or copyright holder's name] and the first year of publication. The word 'copyright' can also be omitted. For example, © ICLA 2024.

Joint works

If two or more individuals collectively create a work, it is considered a joint work. Copyright belongs to them jointly. In joint works, the personal contributions of the creators are not independent works but a shared whole. This means that permission from all creators is required to use a joint work.

[CRRA Sec.22]

Collective works

A collective work is a work in which various creators' contributions can be distinguished from each other, such as a book containing both text and images, or a collection of essays. In the case of a collective work, each creator can determine the use of their own contribution. However, the creators collectively decide on the use of the collective work as a whole. For example, a film or theatrical work can be considered a collective work if literary and musical works have been added to it.

When is a work original?

Not every literary or artistic work is eligible for copyright protection. To be protected, a work requires creative effort. The result of this creative effort should be independent and original, surpassing the so-called 'threshold of originality'. Independence and originality are assessed on a case-by-case basis and ultimately fall under the purview of a court. The threshold for something to be considered an independent work is thought to have been exceeded if it is impossible for someone else to achieve the same result with equivalent effort. The quality of the work is irrelevant. Even a work of low artistic quality or of otherwise poor quality can be protected.

What are 'related rights'?

Related rights resemble copyright. Included under 'related rights' are, for example, the typographical arrangements of a work, performances of a work, sound recordings, film recordings, catalogues, and databases. Copying, storing, and using these works require permission from the performer, producer, photographer, or other rightsholder.

Unlike copyright protection, related rights do not require meeting the threshold of independence and originality. The most significant difference from copyright protection is the length of the protection period which is 70 years after the creator's death in the case of copyright, but 50 years from the year of recording, performance, production, or broadcast for most related rights.

COPYRIGHT IN PRACTICE

Copyright grants the creator of a work the right to determine how and where the work is used. Generally, to use a work protected by copyright, permission from the creator or other rightsholder(s) is required.

People who engage in creative work earn their income from royalties or fees. They sell their works and the rights to use them. For example, an author may sell the publishing and translation rights to a book publisher, the dramatization rights to a playwright, and the filming rights to a film producer. Similarly, an illustrator may sell the rights to publish their works as illustrations in a book to a publisher, the rights to adapt them into an animated film to a TV producer, and the rights to print them on various products to a commercial company.

Each party pays compensation to the creator, either as a flat fee or as royalties based on revenue, for the way they want to use the work. Many creators do not have a monthly salary; their income consists entirely of these royalties and fees.

It can take months or even years to write a book, create a comic, compose a musical work, or film a movie. Artists rarely receive payment for their creative work, its design or practice. Income is earned only when performances occur, when a copy of the work is sold, or when the work is used. Copyright enables artists to make a living through creative work and fosters the creation of new works, including books, comics, films, and music.

© Economic and moral rights

RIGHTS OF THE CREATOR Economic rights safeguard the creator's financial op-Moral rights protect the creator's portunities reputation Making a work available to Making a copy Paternity right Integrity right the public Printing The creator must A work may be identified Public transmission not be altered Digitising when a work is in a way that Photocopying Public performance used violates the Or otherwise Distributing copies of works creator's duplicating copies of a work Public display reputation

Copyright consists of both economic and moral rights. Economic rights are the rights to make copies of the work in a variety of formats and to make it available to the public in a variety of ways. Economic rights give the creator the right to determine whether copies should be made of their work and whether it should be made available to the public, for example, through sales, lending or rental. The creator has the right to decide whether the work can be adapted, translated, or reproduced in a different literary genre, in a different art form, or in any other way. For instance, you need the author's permission to translate, dramatize, or adapt a book, and the composer's permission to create a new version of a musical work.

The moral rights of the creator mean that the creator and their work should be respected. The creator's name should be acknowledged whenever the work is used, and the work should not be altered in a way that would harm the creator's reputation. The work should also not be made available to the public in a context that is disrespectful to the creator.

[CRRA Chapter 4 (economic rights) & Chapter 7 (moral rights)]

Adaptations and translations

The right to modify, translate or adapt a work is part of the creator's exclusive rights. To change a work, such as editing an image, translating a book, creating a new version of a musical work, or adapting a work into a film, you need permission from the creator of the original work.

The new work created when adapting a work is called a derivative work. The person who makes the adaptation, such as the translator, obtains copyright for the derivative work if it is sufficiently independent and original.

You do not need permission to modify a work once its copyright protection has expired.

[CRRA Sec. 43]

Transfer of copyright

A creator can fully or partially transfer their economic rights to someone else, such as a publisher, producer or employer. The recipient of the transferred copyright becomes the rightsholder. Owning a copy of a work, such as a book or a painting, does not mean that you also own the copyright.

An assignment of copyright must be made in writing and signed by or on behalf of the assignor. The recipient of the transferred copyright does not have the right to further transfer it to someone else or modify the work, unless expressly agreed upon.

Moral rights cannot be transferred and remain with the original creator.

[CRRA Sec. 120]

© Copyright duration

Copyright lasts for the lifetime of the creator plus 70 years after the year in which they died. If a work has multiple creators, the protection period is calculated from the end of the year when the last creator died.

Related rights protect works for varying periods:

- Sound recordings: 70 years after first being made or made available, but 50 years for any recording made before 1 November 2013
- Broadcasts and cable programmes: 50 years after first transmission to the public.
- Typographical arrangements: 50 years after first being made available to the public.
- Computer-generated works: 70 years after first being made available to the public.
- Database rights: 15 years from the end of the calendar year in which the database was completed.
- Previously unpublished works whose creators have been dead for more than
 70 years: 25 years from when the work is first made available to the public.

After the protection period has expired, the work can be freely used and is said to be 'in the public domain'.

[CRRA Chapter 3]

Infringement of copyright

The general rule in copyright is that you must seek prior permission if you want to use someone else's work. The owner of the work can then either grant permission or deny it, and they may also request compensation for its use. If you use someone else's work without permission, you are committing a copyright infringement, which is a legal offence. The offence can face both civil and criminal penalties. For an infringement to constitute a criminal offence it would generally need to be demonstrable as wilful and for financial advantage.

The consequences of a copyright infringement can include:

- The user being prohibited from using the copyright material.
- The user having to destroy all copies of any work within which the infringement
 has taken place (e.g. having to destroy the whole print run of an anthology that
 includes work for which permission has not been obtained).
- The user being required to pay financial compensation and/or damages including punitive damages.
- The user being prosecuted for a crime.

If you infringe as part of an educational assignment, especially if you commit plagiarism, you may find yourself expelled from your course or unable to graduate. You may also find there is long-lasting reputational damage. As a student, you are advised to check on the policies and rules of your educational establishment.

It's important to note that you can be held liable even if you didn't infringe copyright intentionally. In other words, claiming that you acted in good faith may not excuse you from legal consequences.

Secondary infringement

If you do not make an infringing copy yourself but make available or distribute a copy that you have reason to believe is infringing, you are committing secondary infringement. This can also face both civil and criminal penalties

Plagiarism

Were you not only to copy someone else's work unlawfully but also to claim it as your own, you would be committing plagiarism.

PHOTOGRAPHY AND PUBLICATION OF PHOTOGRAPHS

Photography and publication of photographs are subject to regulations related to copyright, privacy, reputation, data protection and established practices in accordance with good manners.

Filming and photography

In general, you are allowed to film and take photographs in public places. Public places are areas where you have free access, such as streets, parks, schools, shopping centres, libraries, public transport and government office entrances. However, the owner of a location may prohibit filming and photography. This may be necessary, for example, in hospitals or workplaces.

While filming and photography are allowed in public places, they should not be disruptive.

You are free to photograph buildings from the inside and outside. However, the owner or occupant of a building may prohibit photography for reasons of privacy. For example, an owner or occupant of a museum may prohibit photography inside the museum.

Photographing people

To photograph an individual, you generally need their permission. You are free to photograph or record people in public places, but different rules apply to the publication of photographs or videos. The right to publish such photographs or videos is restricted by several laws. For instance, you may not publish images that damage someone's reputation or privacy or violate data protection laws.



Photographing artworks

In general, photographing an artwork requires permission from the creator of the artwork, or their heirs if the creator has been dead for less than 70 years.

You are free to photograph a permanent artwork, for example a statue or painting in a public place, such as a park, street or library. However, if the

artwork is the main focus of the image, your photograph cannot be used for profit, such as by selling it as postcards. To do that involves the production of copies of the artwork, which requires permission from the artist.

Incidental inclusion

An artwork may appear in a photograph, film or TV programme if its depiction is incidental. Artworks include paintings, sculptures and other visual art. For example, when taking a photograph of a person, a painting on the wall or a statue may appear in the background.

Publication of images

Even though you are allowed to take photographs in public places like parks, streets, schools and classrooms, you should remember that different rules apply to the publication of images than to the actual act of taking the photograph. If the individuals in the image can be recognised, it is usually best to ask their permission to publish the image. You must not damage a person's reputation or privacy when publishing an image. In the case of underage children, permission from their guardians is also required if you want to publish an image in a school newspaper, on a website, or on social media.

Defamation and privacy protection

Everyone's private life and reputation are protected by law. Defamation can occur when false information or insinuations about someone are conveyed in a manner that is likely to cause harm or suffering to the person or expose them to contempt.

USE OF WORKS

Copyright gives the creator the right to determine how a work should be used. Permission for use can be obtained from the creator, another rightsholder, or a collective management organisation (CMO). In certain specified situations, copyright law allows for the use of works without the creator's consent. Such provisions in the law are referred to as copyright exceptions and include use for educational purposes and for news reporting, review and criticism.

When using a work, it is essential always to provide proper acknowledgement of the creator and source.

Quotation

You are allowed to quote works under the following conditions:

- The work being quoted must be published.
- The quotation must have a valid reason, meaning it must be relevant to the context of your own work.
- You may quote to the extent justified by the purpose.
- The original creator and source of the quotation must be acknowledged.
- You are not allowed to create a work consisting solely of quotations.
- There is a copyright exception for criticism or review and news reporting
 [CRRA Sec.52(4)]

Output Use of information or ideas and works in the public domain

You are always free to use the information, ideas, principles, raw data and methods contained within a work so long as your own expression of them is original. Copyright protects the expression of the work, not the information or ideas within it. These can be freely used by anyone, provided that they do not directly copy someone else's work.

Be aware that the term 'data' is being used increasingly for any text or image that might be used for 'text and data mining' or machine reading, implying that no copyright applies. However, original text and images do not constitute raw data and are subject to copyright, requiring permission from the rightsholder for use. Laws, regulations, government decisions and other public sector information are made available with Creative Commons Attribution (CC-BY) licences and can be freely used.

A work 'in the public domain' can also be freely used. This means that the work is no longer subject to copyright restrictions due to expiration of the copyright protection term.

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You can link to websites if the material you link to is freely and legally accessible on the internet. For example, a teacher can add links to materials in the learning environment, or students can add links to online materials in their projects, provided they link directly to the websites where the material is located. Linking to illegally available materials, including videos, on the internet is not allowed and constitutes secondary infringement.

What content can I copy and distribute without permission as a teacher or student?

- 1. Ideas, information, methods, raw data, etc.
- 2. Copyright-free works and works whose copyright protection has expired.
- 3. Quotations within the conditions specified in copyright law.
- 4. Print works or still images covered by licences that your educational institution has obtained, provided the terms of the licence are followed.
- 5. Material that has a Creative Commons licence or an equivalent open licence applied by its creator.
- 6. Audiovisual and musical works used for illustrative purposes in education.

Remember always to mention the creator's name when using a work created by someone else.

Private study or research

In Ireland there is a copyright exception for private study or research as part of the principle of 'Fair Dealing'. This is generally interpreted as studying privately, not as part of a course of study at an educational institution, for personal interest and not for financial gain. The results cannot be communicated to the public. Sharing and publishing online is not considered private use.

[CRRA Sec. 50]



Output Use of works in education

Presentation and display of works in teaching

With ICLA's copying licence teachers can copy extracts of text plus still images from print and digital publications and distribute or display these as-is in their teaching to the extent permitted by the licence. Such display includes projecting websites onto a board/screen. It does not include making that teaching available outside the physical or digital classroom.

There is a copyright exception for showing audiovisual works such as documentaries, films and online videos for educational purposes in the classroom for a specific course of study.

Playing music is also allowed within teaching without separate permission in accordance with the copyright exception for education.

Works from the internet for which a usage licence is not available can be used for illustrative purposes in teaching. This makes it possible, for example, to show advertisements and YouTube videos for illustrative purposes in teaching.

[CRRA sec. 53-58 and 223-226]

ICLA's Copying Licence

ICLA offers copying licences for primary schools, secondary schools, further and higher education institutions. These licences give teachers and lecturers permission to copy extracts from almost all types of printed or digital publications as well as still images and texts available on the internet and distribute them in print or digitally via a closed system to all students on a particular course of study. ICLA's educational licences cover both domestic and foreign material. With a copying licence, you can supplement teaching materials or projects by copying and sharing articles, excerpts from books, and still images. The copied material can be stored in a closed learning environment that is accessible to the class for whom the material is intended.

With an ICLA licence, you are allowed to make supplementary or illustrative markings on text and image material and use image and text material for translation and adaptation exercises. Adapted materials may only be used in a teaching situation. They may not be published or shared outside the class. More information about the copying licences for schools is available at https://www.icla.ie/licences/primary-and-post-primary-schools-licences

ICLA's Copying Licences

For the same group of students, for the same course in the same academic year teachers, lecturers and other staff can

- copy extracts from printed books, journals, periodicals and newspapers
- copy text and still images from ebooks, digital journals and magazines, online newspapers and websites
- distribute extracts digitally or as print outs either as individual items or as part of teacher-generated materials
- store copies in a closed system for classroom use only

COPYING COVERED BY THE LICENCE:

Provided the author(s) and publisher are acknowledged as the source Up to 5% (10% for HEIs) or...

- One complete chapter from a book, including related notes/references
- One article from an issue of a journal, magazine or newspaper
- A short story or poem not exceeding 10 pages in length from an anthology
- The equivalent amount from a digital/online publication not organised in a traditional manner
- Complete still images from a published work and from the internet

COPYING TO WHICH THE LICENCE DOES NOT APPLY:

- All items on the list of Excluded Categories and Works.
 Find the list at icla.ie/licences/exclusions-list
- Government publications
- Maps and charts
- Printed work-cards and assignment sheets
- Printed 'grey literature' (leaflets, publications without an ISBN or ISSN)
- Whole books, journals, newspapers or websites
- The posting of material on the World Wide Web or internet generally
- Copying for re-sale/commercial purposes

Use of TV programmes, videos and films in education

No specific licence for showing TV programmes, films or videos from YouTube and other similar websites in education exists, which is why these can be shown for illustrative purposes under the provisions of the copyright law's exceptions for educational use.

However, it should be noted that there is a lot of material on the internet that may have been uploaded without permission from the original creators. It is only permitted to show legally obtained material in teaching, and only the actual creator or rightsholder can grant permission to upload the video in the first place. The legality of the material can be assessed, for example, by checking who uploaded the video to the internet.

Use of music in education

Sheet music

Sheet music is not covered by any of the copyright exceptions and permission must always be obtained specifically to copy musical notation.

Playing recorded music

The copyright exception for education allows the playing of recorded music to support learning and illustrate teaching. Use in the classroom for a particular course of study and for wider school events is permitted provided these are attended only by members of the school/college. The copyright exception supersedes the restrictions of the Spotify licence only in these specific situations and we would recommend a school/college having its own Spotify agreement that is specific to school activities.

Recording music

The Copyright Act allows for the recording of a teacher's or student's performance for temporary use in education, such as for assessment purposes. The recording must not be used for other purposes.

MCPSI Schools limited manufacture licence

The schools limited manufacture licence from MCPSI grants permission to produce products such as CDs and DVDs of recordings of student performances containing up to 120 minutes of music. The licence can be obtained via ICLA.

Performing plays

Public performances of plays in theatres, schools, and other public settings, require permission from the rightsholders. These are known as 'grand rights'. You can request grand rights for a play directly from the rightsholders or their representatives.

Permission is not needed to perform a play within an educational institution provided no members of the public (e.g. parents) are present.

You can freely perform plays that you have written yourself. However, if you want to adapt a book written by someone else into a play, you will need permission from the author.

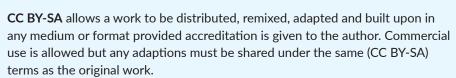
© Creative Commons or other open licences

An author can allow the use of their work through a Creative Commons licence (CC licence). If there is a CC licence attached to a work, there is a CC licence symbol associated with the work that describes how the work can be used. The author may have allowed free use and adaptation of the work or may have prohibited adaptation and/or commercial use of the work. Before using CC-licensed material, you should check the CC licence symbol to see under which conditions the author has allowed its use.

CC licence terms

There are six different types of CC licence that permit different levels of reuse:

CC BY allows a work to be distributed, remixed, adapted and built upon in any medium or format provided accreditation is given to the author.





CC BY-NC allows a work to be distributed, remixed, adapted and built upon in any medium or format provided accreditation is given to the author, but for non-commercial purposes only.

CC BY-NC-SA allows a work to be distributed, remixed, adapted and built upon in any medium or format provided accreditation is given to the author, for non-commercial purposes only and with the requirement that any adaptations must be shared under the same (CC BY-NC-SA) terms as the original work.

CC BY-ND allows a work to be copied and distributed in any medium or format but not to be adapted in any way. Commercial use is permitted. Accreditation must be given to the author.

CC BY-NC-ND allows a work to be copied and distributed in any medium or format but not to be adapted in any way. Only non-commercial uses are allowed. Accreditation must be given to the author.

Additional information about CC licence symbols and the use of CC licences can be found on the Creative Commons website https://creativecommons.org/licenses/.

Artificial intelligence (AI) and copyright

Generative AI and the use of 'large language models' poses many challenges to current copyright law and it is expected that new legislation and case law will clarify the rules in time. The key principles to bear in mind at the present time are that

- 1. only human beings, and neither non-human animals nor machines, can own copyright;
- 2. any copyright material can be used to 'train' an AI system only with the permission of the copyright holder.

You cannot feed copyright protected material into a generative AI tool and produce 'new' content from it without permission of the copyright holder. The terms of use for AI tools often assign the responsibility for content entered into the program to the user. You must ensure that you have permission to input and use the content in the AI tool. Please note that ICLA's copying licences do not permit such use.

COLLECTIVE MANAGEMENT ORGANISATIONS

Rightsholders have set up collective management organisations (CMOs) to protect their interests and grant usage licences on their behalf. The activities of the CMOs are based on mandates given by the creators or rightsholders the CMO seeks to represent, through which rightsholders transfer their rights to the CMO's management and monitoring. The CMOs grant licences for the use of works, collect fees for such use, and distribute the fees to rightsholders based on reports or surveys of usage. CMOs facilitate and simplify the acquisition of rights and the payment of fees to both domestic and foreign rightsholders.



Copyright licensing bodies

Collective management organisations (CMOs) representing different sectors in Ireland and providing licensing services are:

ICLA (Irish Copyright Licensing Agency) – for works consisting of text and still images

IMRO (Irish Music Rights Organisation) - for recorded music

IVARO (Irish Visual Artists Rights Organisation) - for visual works of art

MCPSI (Mechanical Copyright Protection Society) – for the work of composers and publishers of music

MPLC (Motion Picture Licensing Company) - for audiovisual material

NLI (Newspaper Licensing Ireland) - for the content of newspapers and some magazines

PPI (Phonographic Performance Ireland) – for recorded music on behalf of performers and record companies

<u>RAAP</u> (Recorded Artists Actors Performers) – for recorded performances on behalf of performers and proprietors of rights in performances

More information about copyright

More information about copyright can be found on Copyright Classroom. Copyrightclassroom.ie is a website with information about copyright, usage licences for educational institutions, and teaching materials that can be used for teaching and learning copyright skills.

