



Upcoming changes to copyright duration

New standard terms of copyright protection for original published and unpublished materials will apply from **1 January 2019**. Rights holders of older unpublished copyright material should consider whether they need to take action before this date to extend their term of copyright.

What are the changes?

From 1 January 2019, new standard terms of copyright protection will apply to works, sound recordings, films and Crown copyright material, provided the material has not been made public before 1 January 2019. For the first time in Australia, copyright terms will also apply to materials that are not published (or otherwise made public).

The changes simplify and harmonise the copyright terms of unpublished and published materials by introducing standard terms for:

- works (including literary, dramatic, musical and artistic works): the standard term will be **70 years after the death of the author** of the work
- works where the author is unknown: the standard term will be **70 years after the making of the work** or **70 years after the work has first been made public** (provided it is made public within 50 years of its making)
- sound recordings and films—the standard term will be **70 years after the making of the sound recording or film** or **70 years after the material has first been made public** (provided it is made public within 50 years of its making)
- Crown copyright material (where the Commonwealth or a State or Territory is the copyright owner)—the standard term will be **50 years after the making of the material**.

These new copyright terms are consistent with the minimum requirements under Australia's international conventions and agreements.

Who is affected and should I take action?

You may be affected by these changes if you are the owner of copyright in an unpublished work, sound recording or film. In particular, if you are the owner of copyright material that is a literary, dramatic or musical work where the author of the work had died before 1949, copyright in this material will expire on 1 January 2019 if this material is not made public before then.

You may wish to consider taking action before 1 January 2019 if you are seeking to use the material commercially, or if someone else has access to the material and you wish to prevent them from using the material commercially; or you have another reason for maintaining copyright protection.

What if I have unpublished material?

If you own the copyright in an unpublished work, sound recording or film you may wish to make your material public before 1 January 2019 to take advantage of the current duration provisions, which may be longer in some circumstances. For example, for unpublished:

- works where the author has died—if the work is published before 1 January 2019 the term of **70 years after first being made public** will apply
- sound recordings and films—if the material is published before 1 January 2019 the term of **70 years after first being made public** will apply.

The new copyright duration provisions will only apply to existing copyright material. If copyright in material has expired by 1 January 2019, it will not be revived.

Making public vs publication

In general, making public refers to making material available to members of the wider public. The term is broader and more adaptable than 'publication' which generally depends on the supply or offer for sale of copies to the public.

Making public includes publication, but also includes the:

- public performance of a work (e.g. a live performance of a play or film script)
- supply of records of a work to the public (e.g. a sound recording that is made up of a literary, dramatic or musical work)
- exhibition, showing or hearing of an artistic work, film or sound recording in public
- communication of copyright material; that is made available online, broadcast or otherwise electronically transmitted to the public.

In most instances, copyright material will be first made public when it is first published. However material could in certain circumstances be made public before publication, which could shift the date the copyright term starts to an earlier point.

More information

For more information about the changes visit www.communications.gov.au/what-we-do/copyright.

We've put together a table setting out the different copyright terms that will apply from 1 January 2019 at www.communications.gov.au/documents/duration-copyright.

Have a question? Ask us at copyright@communications.gov.au.

Please note: The Department of Communications and the Arts cannot provide you with legal advice. This fact sheet provides general information and should not be considered legal advice. If you are unsure about your legal rights, you should seek independent legal assistance.