

## COPYRIGHT RIGHTS AND WRONGS

It's widely believed that once text or images (whether photographs or other illustrations) have appeared on the Internet they are in the public domain and may be reused freely without payment or attribution. In general, **this is not the case**.

These notes are aimed at clarifying the position. They cover copyright and how material may be used under UK law; most other countries have broadly similar provisions - particularly if they have signed the Berne Convention on copyright (most now have).

## WHO OWNS COPYRIGHT?

The copyright owner is usually the person who created the image or wrote the text (referred to as the author or creator). It does not need to be registered or 'copyrighted' first.

The copyright in words and images remains with the creator, and then belongs to the creator's heirs for 70 years after their death. Copyright may be assigned by the creator (or their estate) to someone else: this will normally be done via a formal contract.

The creator, while retaining copyright, may also licence the use of their work for certain purposes; e.g. publishers requiring Worldwide Rights for a book, First British Serial Rights for a magazine, or using an image as an artist's reference. Such a licence does not provide consent for anyone else to use the image, nor for the original licensee to use the image outside the terms of that licence.

In the UK (and in most other countries), anyone who publishes images or text without the consent of the copyright holder is in breach of the law. 'Publication' in this sense means any reproduction, in part or in whole, in print or online, and whether the original material is published "as-is" (or as a portion of the original) or as part of a derivative work. This applies not only to commercial websites but equally to personal sites, blogs and other forms of social media such as Facebook/Instagram etc.

## WHERE IS COPYRIGHT INFORMATION FOUND?

Books usually carry copyright information on the title page, and feature articles usually carry the author's name. Many photographers embed copyright information in the image metadata. This may be viewed in the file's "Properties" or via Adobe Photoshop, Lightroom or similar software.

However, just because such attribution is missing does not imply that the text or image is free of copyright (see 'Orphan Works').

## WORDS AND IMAGES ON THE INTERNET

If a creator places their work on the Internet, this does not imply that any licence is granted to anyone else to reuse it. Reuse of text stolen from the Internet can readily be detected by search engines, and by programs developed by universities for identifying plagiarism. Recently, it has become possible to search the Internet for images in the same way, and every day many thousands of copyright thefts are being detected.

It is no defence to suggest that the reuse of an author's work is useful publicity for that author. If you're using an author's work without her consent, it can reasonably be assumed that such consent (if it had been requested) would not have been granted without recompense.

Nor is it sufficient to simply remove the image or text from the published placement after being notified that it is not licensed for that use; the copyright material has been used and the creator may legitimately demand payment. Increasingly, such payments are being successfully retrieved by copyright owners or professional firms working on their behalf.

### "FAIR DEALING" OF EXTRACTS

Copyright law allows the use of extracts from a work for direct comment, review, or quotation, provided that the extract is not a substantial portion of the work, and provided that it is properly attributed to the author. However, photographs are in general excluded from such 'fair dealing'.

### MORAL RIGHTS

In most cases the creator has two additional rights in addition to copyright:

- The right of Paternity: to have their work attributed to them as author
- The right of Integrity: not to have their work rewritten, mangled or damaged\* or used within a context or for a cause to which the copyright holder may object.

\* For photographs/illustrations "damaged" is also taken to include distorting or cropping the image

### ORPHAN WORKS

In the UK, there is some relaxation of copyright law in cases where the copyright holder is untraceable, perhaps because there is no obvious attribution to the text or photograph. These are so-called 'orphan works' – works without an obvious paternity.

However, an such an image may have been placed there illegally – for instance, many social sites and some programs that prepare images for the web regrettably strip out identifying metadata. In the UK, removing metadata that identifies the copyright holder is illegal if done for the purpose of concealing the re-use of that image from the creator.

Do not rely on online statements that an image is available for free use. It is the prospective user who must check that it is available for use without further permissions, before use.

Unless you can prove that a work is out of copyright, you must show that you've made specific and diligent search for an unknown creator/copyright holder, then apply for an orphan works licence.

### FURTHER INFORMATION ON COPYRIGHT

This summary from the Outdoor Writers and Photographers Guild is not a definitive statement of the law. A plain-language explanation of copyright law from the UK's Intellectual Property Office may be found at [www.ipo.gov.uk](http://www.ipo.gov.uk). The pdf download is at [www.ipo.gov.uk/c-essential.pdf](http://www.ipo.gov.uk/c-essential.pdf).