

Copyright Guidelines for Moral Rights

The *Copyright Act 1968* Cth gives moral rights to authors of literary, dramatic, musical and artistic works and films. They are a set of rights separate from copyright and remain with the author even when the copyright belongs to another person or entity. The moral rights of authors are:

- To be attributed as the author of their work – the right of attribution;
- Not to have their work falsely attributed to someone else; and
- Not to have their work treated in a derogatory way – the right of integrity

Failure to attribute a work correctly would be an infringement of that author's moral right of attribution. It would also be an infringement to attribute the work to someone else; or to alter the work in a substantial way but still attribute it as the author's unaltered work.

Distorting or altering a work in a way that prejudices the author's honour or reputation would be an infringement of that author's right of integrity. To infringe, the alteration must do more than attract the author's dislike; it has to be prejudicial to the author's honour or reputation.

Moral rights apply to:

- Literary works such as most written material and including computer programs
- Artistic works such as photographs, sketches, plans, maps, paintings, three dimensional works from pottery to statuary and buildings, craft work and murals
- Musical works
- Dramatic works such as plays and screenplays
- Cinematograph films both feature films and documentaries, as well as television programs, commercials, and music videos.

Moral rights last for the same period as copyright protection. Generally that is for the lifetime of the author plus 70 years. For films, copyright lasts for 70 years after first publication but the right of integrity expires on the death of the authors. The author of a film is deemed to be the director, the screen writer, and the producer. If the producer is a company and there is no individual producer, the producer has no moral rights.

Are there any exceptions?

You would not infringe the moral rights of a creator if:

- your action was "reasonable" ; or
- you had the consent of the creator in writing, allowing your omission or action; or
- a special exception applied.

The special exceptions relate to the treatment of artworks and buildings. ***What is "reasonable"?*** The following factors have to be considered to determine whether an action is reasonable:

- the nature of the work
- the purpose for which it is used
- relevant industry practice
- whether the work was created by an employee or under a contract of service
- opinions of multiple authors (if any) about the action

There is no defence of reasonableness for false attribution.

What about consent?

Authors can consent to the non-observance of their moral rights. To be effective, it must

- Be given by the author or the author's representative;
- Be in writing;
- Not have resulted from duress applied to the author;
- Must not have been induced by false or misleading statements.

Employees can give broad consents in favour of their employers.

Outside the employment relationship, the consent must be more specific. It may relate only to specified existing works or specified future works of a particular description; and may cover only specified acts or omissions or specified types of acts or omissions.

What does this mean for QUT?

QUT policy on moral rights can be found in the [Intellectual Property Policy](#).

If QUT staff and students follow good academic practice, there should be no problems with ***the right of attribution***. Care needs to be taken in all situations where the work of another is used, to ensure that it is properly attributed.

In the case of ***the right of integrity*** there should be few problems if what is done is in line with relevant industry practice, as it will be in the case of preparing teaching materials and readings. Staff who manipulate artworks, film, or other forms of media may need to consider their actions in the light of the above, and, if necessary, seek consent from the creator for the alterations they wish to make.

More information

For more information, consult the [University Copyright Officer](#).