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Under Australian law, the Australian Copyright Act defines the legally binding rights of creators of creative and artistic works. The scope of copyright in Australia is defined in the Copyright Act 1968 (as amended), which applies national law throughout Australia. Projects may be covered by the Copyright Act (like sculptures or drawings) as well as the Design Act. Since 2007, performers have had the moral right to record their works. Until 2004, copyright in Australia was based on the plus 50 law, which restricts works to 50 years after the author's death. In 2004, the law was amended to plus 70 in accordance with U.S. law and the European Union, but this change was not made retroactively (unlike the 1995 changes in the European Union that returned some, such as British authors, to copyright). The consequence is that the work of an Australian author who died before 1955 is usually in the public domain in Australia. However, copyright of the authors was extended to 70 years after death for those who died in 1955 or later, so that no more Australian authors will be released from copyright until January 1, 2026 (i.e. those who died in 1955). Australian law is based on powers under Article 51 (xviii) of the Australian Constitution. The Australian Copyright Act is a federal law and is established by the Australian Parliament. Historically, Australian copyright followed British copyright, but now also reflects international standards found in the Berne Convention on the Protection of Literary and Artistic Works, other international copyright agreements and multilateral treaties, and more recently the US-Australian Free Trade Agreement. The Copyright Act 1968 also covers a legal deposit that requires Australian publishers to submit copies of their publications to the National Library of Australia and their respective public libraries, depending on location. Past Australian copyright has historically been influenced by British copyright and international copyright agreements. In turn, Australian copyright has affected copyright in the UK and the Commonwealth. Australian copyright originates in British copyright law, which was established by the British Parliament under the British Courts Act 1828. The British Statute of Anne of 1709, which awarded copyright protection to books, served as a plan to extend copyright to new types of objects in the 18th and 19th centuries. When copyright law was introduced in 1928, British copyright was extended beyond literary property to include engravings and sculptures. During the 19th century it was extended to other works, including paintings, drawings and photographs. Prior to the Australian Federation in 1901, a number of Australian colonies, later states, passed copyright laws. In part, this was done in order to ensure that inadequacy of the protection afforded to Australian authors by British copyright law. State laws continued to apply after the creation of the Commonwealth of Australia in 1901. The laws were in force in accordance with British copyright law, which was in force in the colonies. The Australian Constitution gives the Federal Parliament the power to enact laws relating to copyright and intellectual property at the same time as the states. Article 51 (xviii) of the Commonwealth Constitution stipulates that Parliament, under this Constitution, has the right to enact laws on peace, order and benefit of the Commonwealth Government in respect, in particular, copyright, patents for inventions and projects and trademarks. As a direct consequence, the copyright law was no longer established at the state level, but by the federal Parliament. The first Australian copyright law passed at the federal level was the Copyright Act of 1905, which was a departure from British copyright law. Australia became part of the British imperial copyright system on July 1, 1912, when the Australian Copyright Act of 1912 passed the British Copyright Act of 1911. The British law of 1911 was applied throughout the British Empire, including independent countries such as Australia, Canada, New ealand and South Africa. The 1911 Act made important changes to copyright and practice. The 1911 Act abolished common law in unpublished works, completing a process that began with the 1774 decision of the House of Lords in the case of Donaldson v Beckett, which stated that copyright was the essence of the statute. The scope of the imperial copyright system (by amending the United Kingdom Act) has been expanded to include architecture, recording and film. Copyright Act 1968 cm also: The British Copyright Act of 1911 continued to apply in Australia until the Australian Copyright Act 1968 came into force on 1 May 1968. The 1968 Act was enacted after the collapse of the imperial system following the passage of the British Copyright Act of 1956 and in accordance with the recommendations of the Spicer Committee, which was appointed by the Attorney-General of Australia in 1950 to review the 1912 Act to see what changes Australia needed to ratify the Brussels Act of the Berne Convention. The 1968 Act of 1968 has remained in force since May 2020, but has been amended several times. The first major review was made in 1974, when the Whitlam Government appointed a copyright committee chaired by Judge Frankie to examine the impact of reprograph reproduction on right in Australia. The Committee was also asked to examine the impact of photocopying and to recommend any changes to Australian copyright law to ensure that the right balance of interests between copyright holders and copyright users is in relation to reprographic reprographic reproduction During its discussion, the Franks Committee noted that since Australia was a net importer of copyrighted works, it should be careful not to make too radical decisions. The Franks Committee recommended, among other things, the adoption of a statutory licensing scheme. At the beginning of its review, the Committee stated that the main purpose of copyright is to: ... to give the author of a creative work his reward for the benefit he has given to the community, as well as to encourage the creation of further creative works. On the other hand, since copyright is in the nature of monopoly, the law must, as far as possible, ensure that the rights granted are not abused and that research, research and education are not overly difficult. The Copyright Act 1968 and the state's deposit law require publishers of any kind to contribute copies of their publications to the National Library of Australia, as well as to the State or Territory Library in their jurisdiction. Until the 21st century, this applied to all types of printed materials (and in some states, audiovisual formats). On February 17, 2016, provisions on federal legal deposits were extended to electronic publications of all types. Most states and territories are reviewing or amending existing legislation for 2020 data to extend to digital publications. The Copyright Review Committee (CLRC) conducted a number of investigations into many aspects of copyright in the 1980s and 1990s. One of the key drivers of these reviews was the establishment in 1983 of the Copyright Law Review Committee (HRE) as an advisory body on copyright reform. The CLRC was dissolved in 2005 by the Australian Government after it produced a number of reports. Notable reports include: The Meaning of Publication in the Copyright Act (1984), the Use of Copyright Materials by Churches (1985), The Protection of Performers (1987), Moral Rights (1988), the Journalists Copyright Report (1994), Software Protection (1994), Computer Software Protection (1994), Simplification of the Copyright Act: Part 1 (1998), Simplification of the Copyright Act: Part 2 (1999), Jurisdiction and Procedures of the Copyright Tribunal (2002) Copyright and Contract (2002) and Crown Copyright (2005). The CLRC has also published reports on specific areas of copyright, including Highway to Change: Copyright in a New Communication Environment: A Report by the Copyright Convergence Group on Technological Progress and the Ability of Legislation to Cope With Change (1994), Stop Rip-Offs: Intellectual Property Protection for Aboriginal and Torres Strait Islander Peoples (1994), The 1995 Report, a long review of the titles of the Australian Copyright Society, Bently and Sherman Report 1995, the long title Performers of Law: Options reform, the Janke Report of 1999, the long title Our Culture, Our Future, and Ergas Ergas 2000, a long title report on intellectual property law under the Competition Agreement. The 2006 Amendment Act of copyright Amendments 2005 amended the U.S.-Australia Free Trade Agreement. In particular, it has strengthened anti-border laws, making it illegal in Australia for the first time to circumvent the technical measures used by copyright holders to restrict access to their works, and to expand measures that are considered technological restraints that cannot be circumvented. Like the FTA, the new anti-circumvention law is closely modeled on the Digital Millennium Copyright Act, although it is not identical. The Act has also introduced a number of new exceptions to Australian copyright law. Best known are the private copying exceptions that come out of former Attorney General Philip Ruddock's proposals to allow people to record most television or radio programs at home to watch at a later time with family or friends, and format-shift their music (make copies of compact somewhere on personal computers and portable music players). Unlike some countries in Europe or Canada, players do not receive any fee or license payment as compensation to copyright holders for these private copies, although exceptions are narrowly defined and do not allow, for example, to make copies for friends or family. The law also introduced a copyright exception allowing parody and satire, and an exception allowing some non-profit institutions, such as universities, schools, art galleries and archives, provided that an Australian court decides that the exception will be consistent with Bern's three-step test. Another notable change made to the Act was the expansion of provisions relating to criminal copyright infringement. The law has imposed strict liability for certain copyright infringements and a system of infringement notices (fines in place). The stated purpose of these provisions is to facilitate copyright enforcement, especially for commercial violators. After concerns from user groups and the Senate Standing Committee on Legal and Constitutional Affairs, many of the strict liability offenses that could apply to nonprofit acts were excluded from the final bill. The 2016 Digital Format Inclusion Amendment also included the National Edeposit Statute Review Act (No. 1) 2016, amended by the Copyright Act 1968 of February 17, 2016, under which provisions on federal legal deposits were extended to electronic publications of all types. And most states and territories are reviewing or contributing to apply to digital publications. Under the law (section 195CD (1) (c) (i)) publishers are required to make digital publications without technological protection (TPM) or Digital Rights Management (DRM); that is, there is, must contain all content and functionality without protection, such as password protection or subscription fees. Protected subject matter, exclusive rights and infringement of Australian copyright were substantially influenced by the structure of English law, in addition to the Berne Convention and other international copyright treaties. Thus, there is an exhaustive set of types of protected materials and an exhaustive set of exclusive rights. In the case of the types of materials, Australian law grants rights to works also known as Part III works (after part of the law relating to this): namely, literary works, musical works, artworks and dramatic works. It also grants rights in a different subject matter (Part IV Subject Matter) that cover the types of materials protected in some countries by neighbouring rights: sound recordings, films, broadcasts and published editions. To be protected, the material must fall under one of these exclusive categories. Rights in Part IV subject matter are more limited because the violation requires an accurate copy of the actual item (sound or remakes are not covered). With regard to exclusive rights, different types of subjects have different rights. Copyright holders of works have the right to reproduce, publish (meaning to publish for the first time), perform and adapt the work, and bring it to the public (including broadcasting, or communicate, making available on the Internet). Copyright rights to works of art are more limited (there is no right to control the public display of works of art). Copyright holders in other entities have the exclusive right to make copies, bring them to the public and make them heard/noticed publicly. Violation occurs when a person acts within the exclusive rights of the rights holder without the permission of the rights holder (assuming that one of the exceptions does not apply). Copyright term Main Article: Copyright expires in Australia Before the 2004 Amendment, Australia used the plus 50 rule to determine when a work entered the public domain. Simply put, the work (i.e. literary, dramatic, musical or artistic work) entered the public domain 50 years after the creator's death, except. The 2006 amendments changed the benchmark to plus 70. This brought Australia into line with the United States of America, the European Union and some other jurisdictions; but more than the plus 50 minimum required by the Berne Convention and still applies in many other jurisdictions, including New ealand, Papua New Guinea, Canada and many other Commonwealth countries, as well as Japan and Korea. The plus 70 extension does not apply to crown copyright, which is still subject to the plus 50 rule. Similarly the provision on reciprocity in the European Union Copyright Act, the rule change plus 70 is not retroactive, so that if the copyright has expired before the amendment, it is not revived. The result is that: Any work that has been published during the lifetime of the author, who died before January 1, 1955, is out of copyright. Any work that was published during the life of the author, who died after 31 December 1954, will be released from copyright 70 years after the author's death. Now, in Australia, under the s210 Copyright Act 1968, copyright does not apply to works that were published before May 1, 1969. In Australia, under s33 of the Copyright Act 1968, any literary, dramatic, musical or artistic work that was published after the author's death will continue to exist under copyright 70 years after the year of first publication. For example, if a work is published 10 years after the authors' death, the copyright will exist for 70 years after the first publication, 80 years after the author's death. It should also be noted that perpetual copyright does not apply to works of art. Photographs, recordings, films and anonymous/pseudonymous works have been copyrighted for 70 years since their first publication. Television and sound broadcasts are copyrighted only for fifty years after the year of their first broadcasting (although the material contained in the broadcast may be copyrighted). Most of the other works are also dated to the first broadcast/performance, where it happened after the author's death. The Copyright (Disabled persons and other measures) act, which was passed on 15 June 2017, abolished the indefinite period of copyright for unpublished works. As of January 1, 2019, unpublished copyright works are 70 years after the author's death, if the author is known, or 70 years after the creation of otherwise. The term of 70 years is counted from the end of the relevant calendar year. The United States Copyright Extension Act of Sonny Bono (1998) defines a very different rule based on the year of the first publication in the United States. As a rule, everything that was published before 1923 is in the public domain. An interesting consequence of this for the Internet is that the work may be in the public domain in the US, but not in Australia, or vice versa. It is important to note that, with the exception of works subject to the Shorter Rule, copyright does not depend on the author's country of origin, country of publication or nationality. The work, published in the US by a British author, could still be in the public domain in Australia if the author has died over 70 back or died before 1955, depending on what is shorter. Fair Deal Major exemptions to copyright infringement in Australia come under the general headline of a fair deal. A fair deal is comparable to the fair use of the United States; it's use a work specifically recognized as not infringing copyright. In order to be a fair deal under Australian law, use must fall under a range of specific objectives. These goals vary depending on the type of work, but opportunities: review or critique research or study news reporting of a trial or professional legal advice parody or satire (added to the Copyright Amendment Act 2006) In order to make certain use to be a fair transaction, it must fall under one of these purposes, and must also be fair. What is fair will depend on all the circumstances, including the nature of the work, the nature of use and the impact of use on any commercial market for work. Fair trade is not the same as fair use. This has been interpreted by the United States courts, for example, to ensure the reasonable personal use of works, such as a change of media, which will not necessarily be permitted under Australian fair communication law. Australian copyright law, however, has a number of additional specific exceptions that allow use that may fall beyond both fair and fair use. For example, there are a number of exceptions that allow specific use of computer software. Fair Use Of Offer Home Article: A History of Fair Use of Proposals in Australia While Australian Copyright Exemptions are based on the Fair Trade System, since 1998 a number of Australian government inquiries have reviewed, and in most cases recommended, the introduction of a flexible and open system of fair use in Australian copyright law. Eight inquiries were made between 1998 and 2017 by the Australian government, which looked at whether fair use should be accepted in Australia. Six reviews recommended that Australia adopt a fair use model of copyright exceptions: two requests specifically to the Copyright Act (1998, 2014); and four broader reviews (both 2004, 2013, 2016). One review (2000) recommended that no measures should be taken to introduce good use, while another (2005) did not publish any final report. The two recommendations were specifically in response to stricter copyright rules introduced under the Australian-American Free Trade Agreement (AUSFTA), while the latter two, the Australian Law Reform Commission (ALRC) and the Productivity Commission (PC), were citing the strengthening of Australia's digital economy. At the end of 2006, Australia added a few exceptions for private copying. Recording a broadcast to watch or listen at a more convenient time (s 111A) or a copy of a recording for private and home use (e.g. copying a portable media player) or a copy of a literary work, magazine or newspaper article for personal use (43C) is no longer a copyright infringement. Australia also has: a special unit of exceptions applied to computer programs (for compatibility, security testing, security, use), a special separation of exceptions that apply to works of art in public places (allow photography, random photography, etc.) (see Freedom of Panorama), statutory (i.e. mandatory) licenses allowing schools, universities and others to be used in the payment of a licence fee established either by agreement or by the Copyright Tribunal (see below). Since Australian copyright law recognizes temporary copies stored in computer memory as reproductions that fall under the exclusive rights of the copyright holder, there are also various exceptions for temporary copies made during the normal use or communication of digital copies of works. Moral rights In 2000, moral rights were recognized in Australian copyright law. Only individuals can exercise moral rights. The moral rights provided by Australian law at present are: the right attribution right to be clearly and reasonably defined as the author, in any reasonable form the right to avoid false attribution, where the work is falsely presented as another work of integrity Authorship right not to have a job considered in a derogatory manner (it is the right to protect the honour and reputation of the author) there are also suggestions in Australia of recognition of the moral rights of indigenous communities aimed at helping indigenous peoples protect the integrity and integrity of indigenous culture. In 2003, the bill was distributed to a limited number of stakeholders; since then, the bill has been included in the list that the Government had planned to adopt but had not yet been introduced. Since mid-2007, performers have also been granted moral rights in recording their performances, similar, but not identical, to the moral rights granted to the authors. They were introduced as a result of Australia's ratification of the WIPO Treaty of Operations and Phonograms, which was required under the Australia Free Trade Agreement with Singapore and the Free Trade Agreement between Australia and the United States. Copyright ownership is free and automatic when creating a work. Typically, the first copyright holder will be the author (for literary, musical, dramatic and artistic works) or producer (for recording and film) or TV presenter (for broadcasts). Under Australian law, the author is an employee, the first copyright holder is an employer (this is slightly different from the American doctrine of work for hire: in Australia, the duration of copyright is still measured by the author's life). In Australia, the author of a work is not automatically the owner of the copyright. Copyright can be transferred to another person, but only if the author has been entrusted to the Commissioner. A copyright notice (©) is not required on a work to obtain copyright, but only the copyright holder has the right to post a notice. Useful when publishing the date of the first publication and the owner. Where a copyright notice is used, the defendant must prove that the copyright does not exist or does not belong to the person specified in the notice. State copyright Main Article: Crown Copyright Australian Commonwealth and state governments usually own copyrights in Australia. While this may be seen as being a matter of the fact that the concept of the Crown has traditionally been of paramount importance rather than people, it is more influenced by the then British Commonwealth, acting as a copyright policy body in the 1950s, which was the basis of the Copyright Act 1968. The Australian government does not infringe copyright if its actions (or the actions of an authorized person) are for the government. The relevant collection society can copy government copies and charge the government. State governments follow different licensing, fee and waiver practices. In April 2005, the Australian Attorney-General's Copyright Review Committee completed a major review of Crown copyright law. Thus, the Committee recommended that the Crown be treated as any other employer (i.e. the owner of materials produced by its employees) and that for certain materials (legislation, government reports, commissions of inquiry reports) either copyright to be removed, or generic and generalized licenses be granted for reuse. As of early 2007, several governments appear to be considering using open licenses modeled after the Creative Commons model. Copyrights owned by the Crown in Australia have a different duration for public copyright, as below: Published literary, dramatic or musical works (includes published official recordings) 50 years after the end of the year in which the work first published Unpublished literary, dramatic, musical works of copyright exist indefinitely (see below) Artworks 50 years from the end of the year, when the photographs made 50 years from the end of the year when made indefinitely the works were repeated by the Copyright (Disabled and Other Measures) Act 2017. This part of the law comes into force on January 1, 2019. From that date, the copyright for unpublished works expires 50 years after its vese. Composite author may contain multiple copyrights that are not diminished by their combination or note. For example, each part of a television broadcast is viewed separately, such as visual images, soundtracks, and any scenarios. Copyright Tribunal for Copyright under the Copyright Act 1968 and has certain royalty and licensing powers. It receives swift support from the Federal Court of Australia. It was suggested that it was somewhat more sympathetic to the interests of the rights holder than to the interests of users; for example, by ordering an increase in royalty rates under the VB Education License without any party representing them (both 2004, 2013, 2016). One review (2000) recommended that no measures should be taken to introduce good use, while another (2005) did not publish any final report. The two recommendations were specifically in response to stricter copyright rules introduced under the Australian-American Free Trade Agreement (AUSFTA), while the latter two, the Australian Law Reform Commission (ALRC) and the Productivity Commission (PC), were citing the strengthening of Australia's digital economy. At the end of 2006, Australia added a few exceptions for private copying. 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A copyright notice (©) is not required on a work to obtain copyright, but only the copyright holder has the right to post a notice. Useful when publishing the date of the first publication and the owner. Where a copyright notice is used, the defendant must prove that the copyright does not exist or does not belong to the person specified in the notice. State copyright Main Article: Crown Copyright Australian Commonwealth and state governments usually own copyrights in Australia. While this may be seen as being a matter of the fact that the concept of the Crown has traditionally been of paramount importance rather than people, it is more influenced by the then British Commonwealth, acting as a copyright policy body in the 1950s, which was the basis of the Copyright Act 1968. The Australian government does not infringe copyright if its actions (or the actions of an authorized person) are for the government. The relevant collection society can copy government copies and charge the government. State governments follow different licensing, fee and waiver practices. In April 2005, the Australian Attorney-General's Copyright Review Committee completed a major review of Crown copyright law. Thus, the Committee recommended that the Crown be treated as any other employer (i.e. the owner of materials produced by its employees) and that for certain materials (legislation, government reports, commissions of inquiry reports) either copyright to be removed, or generic and generalized licenses be granted for reuse. As of early 2007, several governments appear to be considering using open licenses modeled after the Creative Commons model. 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Since January 2007, the Act (a) strengthens the provisions on criminal violations, (b) adds new exceptions, including for parody or satire, and private copying, (c) strengthens the Anti-Circumvention Act to make it more similar to the U.S. Copyright Millennium Act (which requires the ACT (U.S.) and (d) makes some changes to regulations affecting libraries and educational institutions. June 2015 - Copyright Amendment (Copyright Infringement) Bill 2015 introduced in Parliament to combat online piracy by online piracy With the support of the Coalition and Labor, December 37-13-22, 2017 - The Copyright (Disability and Other Measures) Act 2017 is out of force. Cm. also International Copyright National System edeposit References s 33 (2) Copyright Act 1968 (Cth) - Davison, Mark J; Anne Louise Monnotti; Lynn Wiseman (2008). Australian intellectual property law. Cambridge University Press. page 180. ISBN 978-0-521-61338-5. a b c Davison, Mark J; Anne Louise Monnotti; Lynn Wiseman (2008). 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