

### WHAT IS COPYRIGHT?

Copyright is an exclusive right to print, copy, or distribute literary works to the public.

### RIGHTS OF COPYRIGHT

Copyright confers on the owner **economic rights**, for example, the right to grant an exclusive licence to third parties of the rights of ownership such as reproduction, distribution, sale, rental, loan, display, and performance. Copyright also confers on the owner the **moral right** to be identified with the work by publication of his name in association with the work; and as well to disassociate his name from any derogatory treatment of the work, and to prevent its bastardisation or destruction.

“Derogatory treatment in relation to a work means any distortion, mutilation or other modification of that work which would be prejudicial to its author’s reputation.” [Copyright (Amendment) Act, 2004]

### WRITING REQUIREMENT

- In order to be protected by copyright, a work must be reduced to written form.
- Licences, consents, permissions, and waivers are required to be evidenced by writing.

### RANGE OF WORKS

Copyright extends to literary works; musical works including any accompanying words; dramatic works including any accompanying music; artistic works; motion pictures and other audiovisual works; choreographic works; sound recordings; and including compilations and derivative works.

### EXCEPTIONS

- Copyright is available only to completed works and not for its components. Ideas, concepts, processes, principles, procedures, systems or matters similar in nature regardless of the form in which it is described, explained, illustrated or embodied in the work are not copyrightable.
- **FAIR DEALING**
- fair dealing with a copyrighted work, including reproduction in copies or phonorecords by public libraries or otherwise for purposes such as research, private study, scholarship, teaching, parliamentary or judicial proceedings does not infringe copyright in protected work *provided it contains a sufficient acknowledgement of the author of the work*.
- usage of copyrighted work for the purpose of criticism, comment, parody or review or for the purpose of reporting current events constitutes fair dealing
- an essential component of fair dealing is proving sufficient acknowledgement of ownership
- **INCIDENTAL INCLUSION**
- The incidental inclusion of protected work into a publication or programme does not constitute copyright infringement.

### RESIDUAL RIGHTS

The benefits of copyright also include the right to prevent the distribution of copies of the work to the public; public display of the work; public performance of the work; reproduction or copying of the work.

### COMMISSIONED WORKS

Where a work is commissioned or made under employment, the author of the work is deemed to be the person for whom the work is prepared or made, and as such owns all the rights and benefits of copyright. These include photographs and audiovisual works.

## **PIRACY**

The infringement of copyright constitutes piracy, the penalties for which may range from a fine of \$25,000.00 - \$100,000.00 and/or a term of imprisonment of up to 4 years.

**Infringement occurs when, for public use, a person, without permission or licence from the owner, makes commercial use of a copyrighted work.**

The law affords the copyright owner a civil remedy in damages. This may include actual damages sustained together with the profits earned by the infringer, or in the alternative, an award of statutory damages to be determined by the Court where the infringement can be proved to have been willfully committed. However copyright infringement by unlicensed possession, sale, or distribution of copyrighted material also constitutes a criminal offence punishable by fine or imprisonment.

## **DURATION OF PROTECTION**

Copyright endures for the lifetime of the author plus 70 years, and in the case of joint authorship the protection ends 70 years after the death of the last surviving author. Where the author is anonymous or pseudonymous, the period of copyright is either 70 years from its first publication, or 100 years from its creation, whichever expires first.

Copyright is an enduring right which may not be taken away by any government or individual.


## **TRANSFER AND TRANSMISSION OF COPYRIGHT**

The ownership of a copyright, being a right of property, may be transferred in its entirety by any means of conveyance, memorandum of transfer, or by operation of law, or by will, or pass as personal property by intestate succession.

Where an original unpublished work is left by Will, the bequest will be construed to include the copyright in the work, provided the testator was the owner of the copyright at the time of death.

## **NOTICE OF COPYRIGHT**

A notice of copyright must contain the following constitutive elements:

1. the symbol ©, the word "Copyright", or the abbreviation "Copr."; or in the case of sound recordings the symbol ;
2. the year of first publication of the work; and
3. the name or alternative recognised designation of the owner of the copyright

## **USE BY DEPARTMENT OF ARCHIVES**

With limited exceptions, the owner of a copyright is required to deposit 2 copies of the work for use by the Dept of Archives. Exceptions include valuable limited edition items, and works produced in minimal quantities.

## **PROCEDURE FOR COPYRIGHT REGISTRATION**

1. Application on the prescribed form;
2. Examination by the Registrar
  - (a) to determine that the material is copyrightable; and
  - (b) for compliance with legal and formal requirements
3. Issue of a Certificate of Registration by Registrar under Seal
4. **The effective date of a copyright registration is the day on which the application, fee, and deposit of two copies of the work are delivered to the Registrar.**

## **WIPO**

The Bahamas has been a member of the World Intellectual Property Organisation since 1977.