

Copyright issues associated with depositing your thesis in ARAN

What is copyright?

- Copyright is a property right protecting the economic interests of people or organisations that create works of various types and own the rights in their work. This right cannot be taken from them nor can their works be used without their permission. (s.17, s.37). As a property right it can be transferred, e.g. by inheritance or contract.
- Copyright is a moral right, which includes the right to be identified as the creator of a work, not to have works falsely attributed to you or have your work falsely attributed to someone else. It also covers the right not to have your work changed or adapted in any way without your permission (s.107-119).

What is protected by copyright?

- Any expression of ideas or facts, once they are fixed in some way, has copyright protection. There are many ways of “fixing” including writing down, filming, making a sound recording, printing, painting, performing, broadcasting and entering on a database. The ideas or facts themselves cannot be protected by copyright.
- Copyright is established automatically and is international.
- Copyright applies to all categories of information irrespective of format, and includes traditional areas such as literary, dramatic, musical and artistic works, as well as “new” categories such as computer programmes, databases and websites.

How long does copyright protection last?

- In most cases a work is protected by copyright for 70 years after the death of the creator (s.24).
- Sound recordings, broadcasts and the typographical arrangements of published works are protected by copyright for 50 years (s.29, 191, 193).
- In many media there can be several rights valid simultaneously e.g. an author and publisher can have different rights to the same published edition at the same time.
- While the content of a work may be out of copyright if the author has been dead more than 70 years, a publisher will continue to have copyright in the typographical arrangement of any published edition of that work for 50 years.
- Where material is published in volumes or parts or broadcast in episodes, the period of copyright protection starts from the date on which each part was made available.
- Rights equivalent to authors' rights may be acquired for 25 years by anyone who first makes a work available to the public (e.g. by publication) after its original copyright has expired, as long as it has never before been made publicly available.

- Database copyright applies to anyone who makes a substantial investment in obtaining, verifying or presenting the content of a database and applies for 15 years from the end of the year in which the database was completed (s.320-361).

Who is the copyright holder?

- The copyright holder is usually the author, editor, publisher, producer, director, photographer, database compiler, sculptor etc.
- Where a work is created in the course of employment, the employer is normally the copyright holder. Employment and research contracts should be explicit in this area.

Authorship and ownership

Copyright generally belongs to the author. This however will change if the author (researcher) has assigned copyright to a third party in a written agreement, eg. the editor or publisher. Some other examples when ownership may have transferred to a different party include the following:

- The employing institution might have employed the author to undertake the work (in this case the copyright belongs automatically to the institution unless a contract freely entered into by both parties specifies otherwise).
- If the author was sponsored by a third party, then a condition of that sponsorship may have been that the copyright was assigned to the sponsor.

What are the exclusive rights of copyright holders?

- The right to use and gain economically from the use of a work is restricted to the owner of the copyright. Any other use should be with the permission of the copyright holder and, if required, include payment to them.
- Subject to exemptions in the Act, the copyright owner has the exclusive right to undertake, or allow others to undertake, certain actions such as:
 - reproduction
 - making works available (e.g. open access, broadcasting, lending)
 - adaptation (e.g. translation from one language to another, conversion of format of electronic documents)

What is restricted by copyright?

- The Act states that "Copyright is infringed by a person, who without licence of the copyright owner undertakes or authorises another person to undertake acts restricted by copyright".
- Copyright can be infringed in many ways, either directly or indirectly and relating to whole or part of works.

What exemptions are allowed under fair dealing?

Fair Dealing has no exact legal definition. It is intended to facilitate a reasonable balance between the economic interests of the copyright holder and the information needs of the user. Under fair dealing (s.50-52), use or reproduction of copyright material for research and private study is allowed, although there is no exact definition given in the Act regarding the amounts that may be reproduced. Such reproduction is deemed acceptable if it is “for a purpose and to an extent that will not unreasonably prejudice the interests of the owner of the copyright”.

Fair dealing exemptions are intended for the individual researcher or student and it is NOT fair dealing to make copies “if you know or have reason to believe that the copying will result in copies of substantially the same material being provided to more than one person for the same purpose”.

The fair dealing exemption does not extend to reproduction of sheet music (S.I. 16/2004).

For more information visit: The [Copyright And Related Rights Act, 2000](#).

Including third party copyright material in your thesis

You need to consider the possible presence of material in your thesis in which the copyright belongs to a third party. An example might be where you have included figures, tables or illustrations created by a third party to illustrate an argument. If your thesis contains third party material you should seek permission from the owner of the copyright in that material in order to make it available in ARAN. Where you are using material that you have personally previously published you should still check whether you need to seek the permission of your publisher in order to make it available in ARAN.

Traditionally, for the purposes of examination, inclusion of such copyright material owned by a third party has not been an issue as the print version of a thesis has not been considered as formally published. However, where you make your thesis available on an open access basis on the Web, the work becomes much more visible and subject to wide dissemination and the copies are no longer made for the purposes of examination.

What you need to seek permission for

If the third party copyright material within your thesis consists of a short quotation from a published work and you have acknowledged and referenced it adequately it will probably not be necessary to seek permission from the copyright holder. However, there is no exact definition given in the Act regarding the amounts that may be reproduced. If in doubt, it is best to seek permission.

Ideally you should seek permission to include third party copyright material in your thesis as you go along rather than at the point of writing up your thesis.

How to seek permission for third party material

If you intend to include published material that you have authored yourself, e.g. journal articles, you still need to check if the publisher will permit you to include these as part of your thesis. The easiest way to do this is by contacting the publisher directly. Most publishers will permit this. You can use the sample permission seeking template as the basis of your correspondence.

To seek permission to include third party material you need to contact the rights holder. This may be the author of a work, a publisher, an illustrator etc. In the case of material from books and journals you should contact the publisher in the first instance. Many publishers give details on their web site of how to seek permission and who to contact. Look for information on rights/permissions/copyright clearance. If the publisher does not hold the rights to the work they should forward your enquiry to whoever does.

Once you have established who to contact you can use the sample permission seeking template to form the basis of a letter or e-mail to the rights holder asking permission to include the material in the electronic version of your thesis.

If the rights holder does not reply immediately you may choose to contact them again. However, do not deem a lack of response as consent to use the material.

What to do if permission is granted

If a copyright holder indicates that permission has been granted you should indicate this at the appropriate point in your thesis, e.g. 'Permission to reproduce this ... has been granted by...'. You should keep a copy of any letters or e-mails you received from rights holders.

What to do if permission is not granted

Where you have not, or cannot obtain permission from third parties, then you must edit the work before submission to ARAN.

If you are depositing your thesis with third party copyright clearance outstanding, you should **remove** the relevant material and insert a place holder at this point in the document, e.g. Figure (Text/Chart/Diagram/image etc.) has been removed due to Copyright restrictions.

Help and advice

If in doubt about whether you need to get permission to include material within your thesis it is best to err on the side of caution and assume that you do. If you have specific queries you can email research.support@nuigalway.ie and your Research Support Librarian will assist you.