



LEGAL RIGHTS - OVERVIEW



1. Copyright

Copyright is part of the concept of intellectual property. It protects the origination of an idea in a material form such as a text or a photograph. It is this materialization of the idea that is protected in Canada under the [Copyright Act](#), a federal law that came into force in 1924.

Example: A photograph taken of a Canadian Pacific locomotive in 1976 by Mr. X belongs to him and no one can use it without asking him for authorization while he is alive. However, anyone can take a photograph of the same locomotive and use their own photograph. It is not the idea of photography (place, time of day, point of view, etc.) that is protected by copyright, but the photograph itself (the materialization of the idea).

The recognized author of a work receives moral benefits and financial benefits (if he wishes to benefit from his work), and a protection of his work to control its exploitation.

Categories of works considered for copyright:

- Literary works: both literature and scientific writing or even utilitarian writing;
- Dramatic works: theatre and cinema;
- Visual arts: sculptures, paintings, drawings and photographs;
- Cartographic documents: drawings and models;
- Audiovisual documents: cinema and television;
- Conferences (must be written on a medium);
- Musical works;
- Multimedia works: websites and video games.

Copyright is valid for the **lifetime of the author and for 50 years after his death**. After that, the work is in the public domain.

It is important to remember that being the owner of a reproduction of the work does not result in any privileges in relation to copyright.

Example: Mr. X decides in 1980 to sell reproductions of his 1976 photograph of the Canadian Pacific locomotive. Mrs. Z buys one of these reproductions. She can't reproduce this one without the authorization of Mr. X because even though she owns the physical object, she did not buy the rights of use.

To learn more about copyright in Canada, consult the [Copyright Board of Canada](#) and the [Canadian Intellectual Property Office](#).

Copyright includes two types of rights: moral rights and economic rights.

a) Moral Rights

Moral rights recognize the authorship of the work and respect for its integrity.



LEGAL RIGHTS - OVERVIEW



The right to be associated with the work requires that every user of the work must **unambiguously** indicate the name of the author.

The right to respect for integrity makes it possible for the author to oppose any modification or distortion of his work.

b) Economic Rights

The economic rights reserve a monopoly of the commercial exploitation of the work to the author for a predetermined duration. **These rights may be assigned to a legal or natural person.**

- The right to reproduce all or a substantial part of the work.
- The right to communicate all or a significant part of a work to the public.
- The right to make an adaptation of a work.
- The right to authorize these acts.

In general, when setting up an archival fonds, the donor assigns all his rights to the archives centre by signing a donation contract. The archives centre thus becomes the main manager of the moral and economic rights of the work. In some cases, the donor may retain his moral rights and in that case a request for use will be sent by the archives centre to him prior to the dissemination of documents.

Reproduction without paying a fee for the use of copyrighted material is possible for certain exceptions according to the regulations of each archives centre. Other rights must be taken into consideration when using archival documents.

2. Rights of Use

The rights of use of archival documents derive from the economic rights attached to them. Each archives centre has a procedure to manage requests for use. An archives centre reserves the right to accept or refuse these requests depending on the specific nature of the requests.

The CRHA Archives and Documentation Centre issues a licence for rights of use for any application to regularize its practices. To request the rights to use one of our documents, [contact us](#).

3. Right to an Image and Right to Privacy

In Quebec, individuals are recognized as having the right to their image. This means that it is **forbidden to reproduce or broadcast a photograph of a person without his permission.**

We think of archives as documents from another era, but we often keep records in our centres that represent people who are still alive. We must therefore bear in mind this principle of law when we distribute documents or receive requests for use.

This right is not absolute. Here is an overview of situations where this right can be overridden:



LEGAL RIGHTS - OVERVIEW



- **A photograph of a public figure.** It is considered that a person who carries out a public activity must accept a certain encroachment on his right to privacy.
- **An image that informs the general public.** When it comes to necessary information, for example when filing evidence in a trial.
- **An image of a crowd.** It is considered that the image (photography, video) represents at this moment an event in the public sphere and not a person in particular, for example: the pedestrians who walk on the sidewalk behind a journalist reporting for television or the crowd at a concert at the opening of a music festival.

The right to privacy is protected in Quebec by sections 3, 35 and 36 of the [Civil Code of Quebec](#) and section 5 of the [Charter of Rights and Freedoms](#). The right to an image is part of the right to privacy detailed in Article 5 of the Charter of Human Rights and Freedoms.