

# What Creators Need to Know About Canadian Copyright Laws

All creative works are automatically protected by copyright laws once they meet certain requirements. Copyright laws prevent works from being reproduced and used in certain ways without permission from the author, creator, or copyright owner. When creating your own works you must not infringe on the copyrights of others. This handout goes over some of the ways you can use the works of others without breaking copyright laws. It is not an exhaustive resource and it is your responsibility, as a creator, to be sure you are not infringing on the copyrights of others by seeking out the most up to date information available. The resources in this handout provide good places to start your search.

## **Creative Commons**

Some creators choose to share their works with others free of charge. These creators choose to register their works under a Creative Commons Licence. This alters their copyright protection to allow certain uses of their works by others.

To help understand the difference between Creative Commons licences and the automatic all rights reserved copyright protections, watch this short video produced by CreativeCommons.org: <https://vimeo.com/13590841>

For a description of the different types of Creative Commons Licences and the uses they allow, visit Creative Commons and read their page about Creative Commons Licences at <https://creativecommons.org/use-remix/cc-licenses/>

Using Creative Commons Licenced sources is the safest way to ensure you are not breaking copyright law. You can search for Creative Commons licenced works with search engines or through CreativeCommons.org here (images) <https://search.creativecommons.org/> or here (by database) <https://oldsearch.creativecommons.org/>

## **Fair Dealings** (similar to Fair Use in the U.S.)

Fair Dealings Canada has a great description of the Fair Dealing exception to the Canadian Copyright Act. The entire document can be found here: <https://fair-dealing.ca/what-is-fair-dealing/>

## What is fair dealing?

**Fair dealing is for everyone.** You probably make use of fair dealing every day without even realizing it, whether emailing a news article to a friend, using a clip from a song, using a copyrighted image on social media, or quoting passages from a book when writing an essay. Activities such as these are not considered to be copyright infringement – in fact, the ability for users to make copies for specific purposes is an integral part of the Canadian *Copyright Act*.

The Canadian *Copyright Act* allows the use of material from a copyright protected work (literature, musical scores, audiovisual works, etc.) without permission when certain conditions are met. People can use fair dealing for **research, private study, education, parody, satire, criticism, review, and news reporting**. In order to ensure your copying is fair, you need to consider several factors such as the amount you are copying, whether you are distributing the copy to others, and whether your copying might have a detrimental effect on potential sales of the original work.

## What is the purpose of fair dealing?

**Fair dealing recognizes that certain uses of copyright protected works are beneficial for society.** By placing limits on instances where copyright owners can require payment, fair dealing leads innovation, to the creation of new works and new scholarship. The Supreme Court of Canada increasingly refers to copyright as providing a balance between the rights of users and of copyright owners.

Fair dealing has a large, positive impact, including for:

- Educators and students at all levels,
- Creative professionals (journalists, authors, filmmakers, musicians, etc.),
- Individuals who want to use, copy or share portions of copyright protected works in their daily lives.

The following is the applicable section of the Canadian Copyright Act located on the Government of Canada Justice Laws Website. It outlines the Fair Dealing exception to the Act. The document can be accessed here:

<https://laws-lois.justice.gc.ca/eng/acts/c-42/page-9.html>

## Fair Dealing

### Research, private study, etc.

**29** Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright.

- R.S., 1985, c. C-42, s. 29
- R.S., 1985, c. 10 (4th Supp.), s. 7
- 1994, c. 47, s. 61
- 1997, c. 24, s. 18
- 2012, c. 20, s. 21

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### Criticism or review

**29.1** Fair dealing for the purpose of criticism or review does not infringe copyright if the following are mentioned:

- **(a)** the source; and
- **(b)** if given in the source, the name of the
  - **(i)** author, in the case of a work,
  - **(ii)** performer, in the case of a performer's performance,
  - **(iii)** maker, in the case of a sound recording, or
  - **(iv)** broadcaster, in the case of a communication signal.
- 1997, c. 24, s. 18

### News reporting

**29.2** Fair dealing for the purpose of news reporting does not infringe copyright if the following are mentioned:

- **(a)** the source; and
- **(b)** if given in the source, the name of the
  - **(i)** author, in the case of a work,
  - **(ii)** performer, in the case of a performer's performance,
  - **(iii)** maker, in the case of a sound recording, or
  - **(iv)** broadcaster, in the case of a communication signal.
- 1997, c. 24, s. 18

## Non-commercial User-generated Content

### Non-commercial user-generated content

- **29.21 (1)** It is not an infringement of copyright for an individual to use an existing work or other subject-matter or copy of one, which has been published or otherwise made available to the public, in the creation of a new work or other subject-matter in which copyright subsists and for the individual — or, with the individual’s authorization, a member of their household — to use the new work or other subject-matter or to authorize an intermediary to disseminate it, if
  - **(a)** the use of, or the authorization to disseminate, the new work or other subject-matter is done solely for non-commercial purposes;
  - **(b)** the source — and, if given in the source, the name of the author, performer, maker or broadcaster — of the existing work or other subject-matter or copy of it are mentioned, if it is reasonable in the circumstances to do so;
  - **(c)** the individual had reasonable grounds to believe that the existing work or other subject-matter or copy of it, as the case may be, was not infringing copyright; and
  - **(d)** the use of, or the authorization to disseminate, the new work or other subject-matter does not have a substantial adverse effect, financial or otherwise, on the exploitation or potential exploitation of the existing work or other subject-matter — or copy of it — or on an existing or potential market for it, including that the new work or other subject-matter is not a substitute for the existing one.
- **Definitions**
  - (2)** The following definitions apply in subsection (1).
    - intermediary*** means a person or entity who regularly provides space or means for works or other subject-matter to be enjoyed by the public. (*intermédiaire*)
    - use*** means to do anything that by this Act the owner of the copyright has the sole right to do, other than the right to authorize anything. (*utiliser*)

**Want more information?** Check out 8 Facts about Canadian Copyright law at <https://www.copyrightlaws.com/8-facts-about-canadian-copyright-law/>

**Think you’ve got it?** Try a quick online quiz by visiting the link below and scrolling down to find the quiz. <https://www.copyrightlaws.com/centre-for-canadian-copyright-law/>