

Permissions Guidelines

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This document is intended to help you identify when you will need to request permission and thus meet your legal obligations. UBC Press has no power to release you from them. Nor can we offer legal advice; if you are not sure whether a particular course of action might result in a lawsuit, you should consult a lawyer.

UBC Press has developed the following guidelines to help authors determine whether permission is necessary for specific types of material (note that interviews, although rather different in nature from other materials, also require permission to be reproduced). After these basic guidelines we have provided further information on copyright in general, who owns copyright, and the concept of "fair dealing."

What Material Requires Permission?

TEXT

Prose and poetry excerpts

As a general guide, you should obtain permission for all published and unpublished prose excerpts over 300 words and for poetry excerpts that constitute more than 5 percent of the poem. You also need to obtain permission for documents such as e-mails, letters, speeches, sermons, public addresses, radio broadcasts, and so on. Try to avoid lengthy quotations and to break particularly long ones into parts. Cumulative quotations from a single source should normally not exceed 500 words without permission.

Excerpts from commercial sources

Contemporary literature, song lyrics, and other for-profit material in current circulation can have more stringent requirements. When quoting more than a short phrase from commercial sources, please obtain permission from the rights holder *and* make sure you discuss this with your editor at UBC Press.

Translations

Published translations are subject to the same permissions requirements as works published in their original language.

Interviews

You must obtain written permission to quote from interviewees who are identified in the text or are potentially identifiable. Anonymous interviewees must have been made aware of the possibility of publication at the time of the interview. If you cannot supply the Press with copies of the signed consent forms (for reasons of privacy), you must provide a letter stating that you have signed consent forms in your possession and that you assume full liability in the unlikely event of legal proceedings arising from the material.

Federal government documents

Federal government documents such as laws, statutes, acts of Parliament, court/tribunal decisions, and so on, are not copyright protected and can be freely used without seeking permission. But other Crown documents, such as reports, maps, plans, and so on, are often copyright-protected, and you must obtain permission from

the relevant department or ministry. This is the case even in situations where the material is free or made publicly available online, at government offices, and so on.

Provincial/territorial/municipal government documents

The situation varies across the country with respect to government documents of any type, and so any use should be treated as if the material in question is copyright protected, and the appropriate inquiries should be made.

Your own previously published work

You may need to seek permission to use or adapt your own previously published work. Some publication agreements issued by scholarly journals or presses state that the author is free to republish the material in a book of his or her own. But before reprinting your own previously published material or drawing from it in a significant way, review your publication agreement to see what rights you may have transferred to the original publisher.

ILLUSTRATIONS

Note that if the illustration you wish to reproduce was found in a book, it is unlikely that the book's publisher is the copyright holder. The original source of the illustration can probably be found in the figure's caption, or in a credit section elsewhere in the book.

Photographs

Permission is required for all photographs, and the photographer and/or archive must be properly credited. The copyright owner is the owner of the negative – this may or may not be the photographer. In addition, even if copyright has lapsed and the image in question is now in the public domain, you may have to obtain a licence from an archive to use the photograph. If you have photographed people specifically for the purpose of including their images in your book, you will need to obtain letters of consent from them.

Graphs and tables

For graphs and tables you have conceived of and created yourself, simply credit the source of the data. For graphs and tables that represent intellectual analysis done by someone else, you will need written permission.

Maps

Maps require permission if reproduced from another copyrighted source, including online sources.

UNLOCATABLE COPYRIGHT OWNERS

In situations where you have attempted unsuccessfully to locate the owners of copyright and have exhausted all of your resources, please discuss the situation with your editor at UBC Press. Keep a close record of your efforts (phone calls, emails, internet searches, etc.); in some cases we may still be able to use the material in question if it can be established that you have exercised due diligence. If not, we may decide that you should apply to the Copyright Board for clearance.

What Is Copyright?

Copyright is a form of protection provided by the Canadian *Copyright Act* (<http://laws-lois.justice.gc.ca/eng/acts/C-42/>) to the authors of original works of authorship, including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published *and* unpublished works. Unless you are able to claim “fair dealing” of a work (known as “fair use” in the United States), you must obtain permission from the copyright holder in order to reprint (or adapt) prose, poetry,

tables, figures/graphs, music, song lyrics, line drawings, photographs, fine art, and any other form of copyrightable expression.

Some key points to remember

- Copyright applies only to original expressions, not to facts or ideas. The latter are part of the public domain and no one can have monopoly over them.
- Copyright applies to both published and unpublished works.
- For copyright to exist, it must be “fixed” in some tangible form (recorded, written down in some form, created, etc.)
- “Fixation” is all that is necessary for copyright to come into being (i.e., no formalities or registration are necessary). Copyright protection is automatic upon the creation of a work.
- Copyright is always limited in duration, and at the end of the term of copyright the material enters the public domain. Once in the public domain, the exact work can never again be protected and is free for all to use.

Who Owns Copyright?

It is often difficult to ascertain who owns copyright in a particular work. In many cases, copyright is owned by the creator of the work. There are, however, exceptions to this.

- The copyright may have been assigned by the author to another party.
- If the work is created as a part of one’s job in the course of employment, the employer will own the copyright (unless a separate agreement assigning it to the creator is in place).
- In the case of published texts and music, the publisher may administer the copyright on behalf of the author.
- In the case of photographs or fine art, the artist may be represented by a gallery or agency who can grant reproduction rights.

When you begin applying for permissions, do not assume that the author or publisher holds copyright. It is your responsibility to ascertain exactly who the rights holder is and to make the appropriate application. For more information on ownership, please review Section 13 of the *Copyright Act*.

Term of Copyright

The general rule (as specified in Section 6 of the *Copyright Act*) stipulates that the term of copyright for most works is the life of the author + 50 years. There are numerous exceptions to this general rule, some of the more common of which are:

- Multiple authors: life of last surviving author + 50 years
- Works owned by Crown: remainder of year of making + 50 years
- Photograph where first owner is individual: life of author + 50 years
- Photograph where first owner is corporation: remainder of year of making + 50 years

For situations not covered above, please refer to the *Copyright Act*, or see one of the works listed under “Additional Resources” below.

Fair Dealing

Section 29 of the Canadian *Copyright Act* does allow for the limited use of copyrighted material under five basic categories: research, private study, criticism, review, and news reporting. If your use of copyrighted material falls within the bounds of fair dealing, you do not need to seek permission to use that material, although you do need to credit the source and the name of the author/creator. Unfortunately, the *Act* does not provide much guidance on what exactly constitutes fair dealing or an infringement of copyright.

Additional Resources

For a more in-depth discussion of copyright and permissions as they apply to publishing in a Canadian context, the following sources offer additional information:

Bielstein, Susan M. *Permissions, A Survival Guide: Blunt Talk about Art as Intellectual Property*. Chicago:

University of Chicago Press, 2006 (particularly as it pertains to visual imagery).

Harris, Lesley Ellen. *Canadian Copyright Law*, 4th ed. Toronto: McGraw-Hill Ryerson, 2013.

Murray, Laura J., and Samuel E. Trosow. *Canadian Copyright: A Citizen's Guide*, 2nd ed. Toronto: Between the Lines, 2013.

Vaver, David. *Copyright Law*. Toronto: Irwin Law, 2000.