**Copyright Act**

**R.S.C., 1985, c. C-42**

An Act respecting copyright

**Short Title**

**Marginal note:Short title**

**1** This Act may be cited as the [*Copyright Act*](http://laws-lois.justice.gc.ca/eng/acts/C-42).

* R.S., c. C-30, s. 1.

**Interpretation**

**Marginal note:Definitions**

**2** In this Act,

***architectural work*** means any building or structure or any model of a building or structure; (*oeuvre architecturale*)

***architectural work of art***[Repealed, 1993, c. 44, s. 53]

***artistic work*** includes paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship, architectural works, and compilations of artistic works; (*oeuvre artistique*)

***Berne Convention country*** means a country that is a party to the Convention for the Protection of Literary and Artistic Works concluded at Berne on September 9, 1886, or any one of its revisions, including the Paris Act of 1971; (*pays partie à la Convention de Berne*)

***Board*** means the Copyright Board established by subsection 66(1); (*Commission*)

***book*** means a volume or a part or division of a volume, in printed form, but does not include

* **(a)** a pamphlet,
* **(b)** a newspaper, review, magazine or other periodical,
* **(c)** a map, chart, plan or sheet music where the map, chart, plan or sheet music is separately published, and
* **(d)** an instruction or repair manual that accompanies a product or that is supplied as an accessory to a service; (*livre*)

***broadcaster*** means a body that, in the course of operating a broadcasting undertaking, broadcasts a communication signal in accordance with the law of the country in which the broadcasting undertaking is carried on, but excludes a body whose primary activity in relation to communication signals is their retransmission; (*radiodiffuseur*)

***choreographic work*** includes any work of choreography, whether or not it has any story line; (*oeuvre chorégraphique*)

***cinematograph***[Repealed, 1997, c. 24, s. 1]

***cinematographic work*** includes any work expressed by any process analogous to cinematography, whether or not accompanied by a soundtrack; (*oeuvre cinématographique*)

***collective society*** means a society, association or corporation that carries on the business of collective administration of copyright or of the remuneration right conferred by section 19 or 81 for the benefit of those who, by assignment, grant of licence, appointment of it as their agent or otherwise, authorize it to act on their behalf in relation to that collective administration, and

* **(a)** operates a licensing scheme, applicable in relation to a repertoire of works, performer’s performances, sound recordings or communication signals of more than one author, performer, sound recording maker or broadcaster, pursuant to which the society, association or corporation sets out classes of uses that it agrees to authorize under this Act, and the royalties and terms and conditions on which it agrees to authorize those classes of uses, or
* **(b)** carries on the business of collecting and distributing royalties or levies payable pursuant to this Act; (*société de gestion*)

***collective work*** means

* **(a)** an encyclopaedia, dictionary, year book or similar work,
* **(b)** a newspaper, review, magazine or similar periodical, and
* **(c)** any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated; (*recueil*)

***commercially available*** means, in relation to a work or other subject-matter,

* **(a)** available on the Canadian market within a reasonable time and for a reasonable price and may be located with reasonable effort, or
* **(b)** for which a licence to reproduce, perform in public or communicate to the public by telecommunication is available from a collective society within a reasonable time and for a reasonable price and may be located with reasonable effort; (*accessible sur le marché*)

***communication signal*** means radio waves transmitted through space without any artificial guide, for reception by the public; (*signal de communication*)

***compilation*** means

* **(a)** a work resulting from the selection or arrangement of literary, dramatic, musical or artistic works or of parts thereof, or
* **(b)** a work resulting from the selection or arrangement of data; (*compilation*)

***computer program*** means a set of instructions or statements, expressed, fixed, embodied or stored in any manner, that is to be used directly or indirectly in a computer in order to bring about a specific result; (*programme d’ordinateur*)

***copyright*** means the rights described in

* **(a)** section 3, in the case of a work,
* **(b)** sections 15 and 26, in the case of a performer’s performance,
* **(c)** section 18, in the case of a sound recording, or
* **(d)** section 21, in the case of a communication signal; (*droit d’auteur*)

***country*** includes any territory; (*pays*)

***defendant*** includes a respondent to an application; (*Version anglaise seulement*)

***delivery***[Repealed, 1997, c. 24, s. 1]

***dramatic work*** includes

* **(a)** any piece for recitation, choreographic work or mime, the scenic arrangement or acting form of which is fixed in writing or otherwise,
* **(b)** any cinematographic work, and
* **(c)** any compilation of dramatic works; (*oeuvre dramatique*)

***educational institution*** means

* **(a)** a non-profit institution licensed or recognized by or under an Act of Parliament or the legislature of a province to provide pre-school, elementary, secondary or post-secondary education,
* **(b)** a non-profit institution that is directed or controlled by a board of education regulated by or under an Act of the legislature of a province and that provides continuing, professional or vocational education or training,
* **(c)** a department or agency of any order of government, or any non-profit body, that controls or supervises education or training referred to in paragraph (a) or (b), or
* **(d)** any other non-profit institution prescribed by regulation; (*établissement d’enseignement*)

***engravings*** includes etchings, lithographs, woodcuts, prints and other similar works, not being photographs; (*gravure*)

***every original literary, dramatic, musical and artistic work*** includes every original production in the literary, scientific or artistic domain, whatever may be the mode or form of its expression, such as compilations, books, pamphlets and other writings, lectures, dramatic or dramatico-musical works, musical works, translations, illustrations, sketches and plastic works relative to geography, topography, architecture or science; (*toute oeuvre littéraire, dramatique, musicale ou artistique originale*)

***exclusive distributor*** means, in relation to a book, a person who

* **(a)** has, before or after the coming into force of this definition, been appointed in writing, by the owner or exclusive licensee of the copyright in the book in Canada, as
  + **(i)** the only distributor of the book in Canada or any part of Canada, or
  + **(ii)** the only distributor of the book in Canada or any part of Canada in respect of a particular sector of the market, and
* **(b)** meets the criteria established by regulations made under section 2.6,

and, for greater certainty, if there are no regulations made under section 2.6, then no person qualifies under this definition as an “exclusive distributor”; (*distributeur exclusif*)

***Her Majesty’s Realms and Territories***[Repealed, 1997, c. 24, s. 1]

***infringing*** means

* **(a)** in relation to a work in which copyright subsists, any copy, including any colourable imitation, made or dealt with in contravention of this Act,
* **(b)** in relation to a performer’s performance in respect of which copyright subsists, any fixation or copy of a fixation of it made or dealt with in contravention of this Act,
* **(c)** in relation to a sound recording in respect of which copyright subsists, any copy of it made or dealt with in contravention of this Act, or
* **(d)** in relation to a communication signal in respect of which copyright subsists, any fixation or copy of a fixation of it made or dealt with in contravention of this Act.

The definition includes a copy that is imported in the circumstances set out in paragraph 27(2)(e) and section 27.1 but does not otherwise include a copy made with the consent of the owner of the copyright in the country where the copy was made; (*contrefaçon*)

***lecture*** includes address, speech and sermon; (*conférence*)

***legal representatives*** includes heirs, executors, administrators, successors and assigns, or agents or attorneys who are thereunto duly authorized in writing; (*représentants légaux*)

***library, archive or museum*** means

* **(a)** an institution, whether or not incorporated, that is not established or conducted for profit or that does not form a part of, or is not administered or directly or indirectly controlled by, a body that is established or conducted for profit, in which is held and maintained a collection of documents and other materials that is open to the public or to researchers, or
* **(b)** any other non-profit institution prescribed by regulation; (*bibliothèque, musée ou service d’archives*)

***literary work*** includes tables, computer programs, and compilations of literary works; (*oeuvre littéraire*)

***maker*** means

* **(a)** in relation to a cinematographic work, the person by whom the arrangements necessary for the making of the work are undertaken, or
* **(b)** in relation to a sound recording, the person by whom the arrangements necessary for the first fixation of the sounds are undertaken; (*producteur*)

***Minister***, except in sections 44 to 44.12, means the Minister of Industry; (*ministre*)

***moral rights*** means the rights described in subsections 14.1(1) and 17.1(1); (*droits moraux*)

***musical work*** means any work of music or musical composition, with or without words, and includes any compilation thereof; (*oeuvre musicale*)

***perceptual disability*** means a disability that prevents or inhibits a person from reading or hearing a literary, musical, dramatic or artistic work in its original format, and includes such a disability resulting from

* **(a)** severe or total impairment of sight or hearing or the inability to focus or move one’s eyes,
* **(b)** the inability to hold or manipulate a book, or
* **(c)** an impairment relating to comprehension; (*déficience perceptuelle*)

***performance*** means any acoustic or visual representation of a work, performer’s performance, sound recording or communication signal, including a representation made by means of any mechanical instrument, radio receiving set or television receiving set; (*représentation* ou *exécution*)

***performer’s performance*** means any of the following when done by a performer:

* **(a)** a performance of an artistic work, dramatic work or musical work, whether or not the work was previously fixed in any material form, and whether or not the work’s term of copyright protection under this Act has expired,
* **(b)** a recitation or reading of a literary work, whether or not the work’s term of copyright protection under this Act has expired, or
* **(c)** an improvisation of a dramatic work, musical work or literary work, whether or not the improvised work is based on a pre-existing work; (*prestation*)

***photograph*** includes photo-lithograph and any work expressed by any process analogous to photography; (*photographie*)

***Version anglaise seulement***

***plaintiff*** includes an applicant; (*Version anglaise seulement*)

***plate*** includes

* **(a)** any stereotype or other plate, stone, block, mould, matrix, transfer or negative used or intended to be used for printing or reproducing copies of any work, and
* **(b)** any matrix or other appliance used or intended to be used for making or reproducing sound recordings, performer’s performances or communication signals; (*planche*)

***premises*** means, in relation to an educational institution, a place where education or training referred to in the definition “educational institution” is provided, controlled or supervised by the educational institution; (*locaux*)

***receiving device***[Repealed, 1993, c. 44, s. 79]

***Rome Convention country*** means a country that is a party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on October 26, 1961; (*pays partie à la Convention de Rome*)

***sculpture*** includes a cast or model; (*sculpture*)

***sound recording*** means a recording, fixed in any material form, consisting of sounds, whether or not of a performance of a work, but excludes any soundtrack of a cinematographic work where it accompanies the cinematographic work; (*enregistrement sonore*)

***telecommunication*** means any transmission of signs, signals, writing, images or sounds or intelligence of any nature by wire, radio, visual, optical or other electromagnetic system; (*télécommunication*)

***treaty country*** means a Berne Convention country, UCC country, WCT country or WTO Member; (*pays signataire*)

***UCC country*** means a country that is a party to the Universal Copyright Convention, adopted on September 6, 1952 in Geneva, Switzerland, or to that Convention as revised in Paris, France on July 24, 1971; (*pays partie à la Convention universelle*)

***WCT country*** means a country that is a party to the WIPO Copyright Treaty, adopted in Geneva on December 20, 1996; (*pays partie au traité de l’ODA*)

***work*** includes the title thereof when such title is original and distinctive; (*oeuvre*)

***work of joint authorship*** means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors; (*oeuvre créée en collaboration*)

***work of sculpture***[Repealed, 1997, c. 24, s. 1]

***WPPT country*** means a country that is a party to the WIPO Performances and Phonograms Treaty, adopted in Geneva on December 20, 1996; (*pays partie au traité de l’OIEP*)

***WTO Member*** means a Member of the World Trade Organization as defined in subsection 2(1) of the [*World Trade Organization Agreement Implementation Act*](http://laws-lois.justice.gc.ca/eng/acts/W-11.8). (*membre de l’OMC*)

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-2-20140813.html)

**Marginal note:Compilations**

* **2.1** **(1)** A compilation containing two or more of the categories of literary, dramatic, musical or artistic works shall be deemed to be a compilation of the category making up the most substantial part of the compilation.
* **Marginal note:Idem**

**(2)** The mere fact that a work is included in a compilation does not increase, decrease or otherwise affect the protection conferred by this Act in respect of the copyright in the work or the moral rights in respect of the work.

* 1993, c. 44, s. 54.

**Definition of *maker***

**2.11** For greater certainty, the arrangements referred to in paragraph (b) of the definition ***maker*** in section 2, as that term is used in section 19 and in the definition ***eligible maker*** in section 79, include arrangements for entering into contracts with performers, financial arrangements and technical arrangements required for the first fixation of the sounds for a sound recording.

* 1997, c. 24, s. 2.

**Definition of *publication***

* **2.2** **(1)** For the purposes of this Act, ***publication*** means
  + **(a)** in relation to works,
    - **(i)** making copies of a work available to the public,
    - **(ii)** the construction of an architectural work, and
    - **(iii)** the incorporation of an artistic work into an architectural work, and
  + **(b)** in relation to sound recordings, making copies of a sound recording available to the public,

but does not include

* + **(c)** the performance in public, or the communication to the public by telecommunication, of a literary, dramatic, musical or artistic work or a sound recording, or
  + **(d)** the exhibition in public of an artistic work.
* **Marginal note:Issue of photographs and engravings**

**(2)** For the purpose of subsection (1), the issue of photographs and engravings of sculptures and architectural works is not deemed to be publication of those works.

* **Marginal note:Where no consent of copyright owner**

**(3)** For the purposes of this Act, other than in respect of infringement of copyright, a work or other subject-matter is not deemed to be published or performed in public or communicated to the public by telecommunication if that act is done without the consent of the owner of the copyright.

* **Marginal note:Unpublished works**

**(4)** Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the conditions of this Act conferring copyright are deemed to have been complied with if the author was, during any substantial part of that period, a subject or citizen of, or a person ordinarily resident in, a country to which this Act extends.

* 1997, c. 24, s. 2.

**Marginal note:Telecommunication**

**2.3** A person who communicates a work or other subject-matter to the public by telecommunication does not by that act alone perform it in public, nor by that act alone is deemed to authorize its performance in public.

* 1997, c. 24, s. 2.

**Marginal note:Communication to the public by telecommunication**

* **2.4** **(1)** For the purposes of communication to the public by telecommunication,
  + **(a)** persons who occupy apartments, hotel rooms or dwelling units situated in the same building are part of the public, and a communication intended to be received exclusively by such persons is a communication to the public;
  + **(b)** a person whose only act in respect of the communication of a work or other subject-matter to the public consists of providing the means of telecommunication necessary for another person to so communicate the work or other subject-matter does not communicate that work or other subject-matter to the public; and
  + **(c)** where a person, as part of
    - **(i)** a network, within the meaning of the [*Broadcasting Act*](http://laws-lois.justice.gc.ca/eng/acts/B-9.01), whose operations result in the communication of works or other subject-matter to the public, or
    - **(ii)** any programming undertaking whose operations result in the communication of works or other subject-matter to the public,

transmits by telecommunication a work or other subject-matter that is communicated to the public by another person who is not a retransmitter of a signal within the meaning of subsection 31(1), the transmission and communication of that work or other subject-matter by those persons constitute a single communication to the public for which those persons are jointly and severally liable.

* **Marginal note:Communication to the public by telecommunication**

**(1.1)** For the purposes of this Act, communication of a work or other subject-matter to the public by telecommunication includes making it available to the public by telecommunication in a way that allows a member of the public to have access to it from a place and at a time individually chosen by that member of the public.

* **Marginal note:Regulations**

**(2)** The Governor in Council may make regulations defining “programming undertaking” for the purpose of paragraph (1)(c).

* **Marginal note:Exception**

**(3)** A work is not communicated in the manner described in paragraph (1)(c) or 3(1)(f) where a signal carrying the work is retransmitted to a person who is a retransmitter within the meaning of subsection 31(1).

* 1997, c. 24, s. 2;
* 2002, c. 26, s. 1;
* 2012, c. 20, s. 3.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-2.4-20030321.html)

**Marginal note:What constitutes rental**

* **2.5** **(1)** For the purposes of paragraphs 3(1)(h) and (i), 15(1)(c) and 18(1)(c), an arrangement, whatever its form, constitutes a rental of a computer program or sound recording if, and only if,
  + **(a)** it is in substance a rental, having regard to all the circumstances; and
  + **(b)** it is entered into with motive of gain in relation to the overall operations of the person who rents out the computer program or sound recording, as the case may be.
* **Marginal note:Motive of gain**

**(2)** For the purpose of paragraph (1)(b), a person who rents out a computer program or sound recording with the intention of recovering no more than the costs, including overhead, associated with the rental operations does not by that act alone have a motive of gain in relation to the rental operations.

* 1997, c. 24, s. 2.

**Marginal note:Exclusive distributor**

**2.6** The Governor in Council may make regulations establishing distribution criteria for the purpose of paragraph (b) of the definition “exclusive distributor” in section 2.

* 1997, c. 24, s. 2.

**Marginal note:Exclusive licence**

**2.7** For the purposes of this Act, an exclusive licence is an authorization to do any act that is subject to copyright to the exclusion of all others including the copyright owner, whether the authorization is granted by the owner or an exclusive licensee claiming under the owner.

* 1997, c. 24, s. 2.

**PART I**

**Copyright and Moral Rights in Works**

Copyright

**Marginal note:Copyright in works**

* **3** **(1)** For the purposes of this Act, ***copyright***, in relation to a work, means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform the work or any substantial part thereof in public or, if the work is unpublished, to publish the work or any substantial part thereof, and includes the sole right
  + **(a)** to produce, reproduce, perform or publish any translation of the work,
  + **(b)** in the case of a dramatic work, to convert it into a novel or other non-dramatic work,
  + **(c)** in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise,
  + **(d)** in the case of a literary, dramatic or musical work, to make any sound recording, cinematograph film or other contrivance by means of which the work may be mechanically reproduced or performed,
  + **(e)** in the case of any literary, dramatic, musical or artistic work, to reproduce, adapt and publicly present the work as a cinematographic work,
  + **(f)** in the case of any literary, dramatic, musical or artistic work, to communicate the work to the public by telecommunication,
  + **(g)** to present at a public exhibition, for a purpose other than sale or hire, an artistic work created after June 7, 1988, other than a map, chart or plan,
  + **(h)** in the case of a computer program that can be reproduced in the ordinary course of its use, other than by a reproduction during its execution in conjunction with a machine, device or computer, to rent out the computer program,
  + **(i)** in the case of a musical work, to rent out a sound recording in which the work is embodied, and
  + **(j)** in the case of a work that is in the form of a tangible object, to sell or otherwise transfer ownership of the tangible object, as long as that ownership has never previously been transferred in or outside Canada with the authorization of the copyright owner,

and to authorize any such acts.

* **Marginal note:Simultaneous fixing**

**(1.1)** A work that is communicated in the manner described in paragraph (1)(f) is fixed even if it is fixed simultaneously with its communication.

* **(1.2) to (4)** [Repealed, 1997, c. 24, s. 3]

# PART III

# Infringement of Copyright and Moral Rights and Exceptions to Infringement

## Infringement of Copyright

### General

###### Marginal note:Infringement generally

* **27** **(1)** It is an infringement of copyright for any person to do, without the consent of the owner of the copyright, anything that by this Act only the owner of the copyright has the right to do.

###### Marginal note:Secondary infringement

**(2)** It is an infringement of copyright for any person to

* + **(a)** sell or rent out,
  + **(b)** distribute to such an extent as to affect prejudicially the owner of the copyright,
  + **(c)** by way of trade distribute, expose or offer for sale or rental, or exhibit in public,
  + **(d)** possess for the purpose of doing anything referred to in paragraphs (a) to (c), or
  + **(e)** import into Canada for the purpose of doing anything referred to in paragraphs (a) to (c),

a copy of a work, sound recording or fixation of a performer’s performance or of a communication signal that the person knows or should have known infringes copyright or would infringe copyright if it had been made in Canada by the person who made it.

###### Marginal note:Clarification

**(2.1)** For greater certainty, a copy made outside Canada does not infringe copyright under subsection (2) if, had it been made in Canada, it would have been made under a limitation or exception under this Act.

###### Marginal note:Secondary infringement  — exportation

**(2.11)** It is an infringement of copyright for any person, for the purpose of doing anything referred to in paragraphs (2)(a) to (c), to export or attempt to export a copy  —  of a work, sound recording or fixation of a performer’s performance or of a communication signal  —  that the person knows or should have known was made without the consent of the owner of the copyright in the country where the copy was made.

###### Marginal note:Exception

**(2.12)** Subsection (2.11) does not apply with respect to a copy that was made under a limitation or exception under this Act or, if it was made outside Canada, that would have been made under such a limitation or exception had it been made in Canada.

###### Marginal note:Secondary infringement related to lesson

**(2.2)** It is an infringement of copyright for any person to do any of the following acts with respect to anything that the person knows or should have known is a lesson, as defined in subsection 30.01(1), or a fixation of one:

* + **(a)** to sell it or to rent it out;
  + **(b)** to distribute it to an extent that the owner of the copyright in the work or other subject-matter that is included in the lesson is prejudicially affected;
  + **(c)** by way of trade, to distribute it, expose or offer it for sale or rental or exhibit it in public;
  + **(d)** to possess it for the purpose of doing anything referred to in any of paragraphs (a) to (c);
  + **(e)** to communicate it by telecommunication to any person other than a person referred to in paragraph 30.01(3)(a); or
  + **(f)** to circumvent or contravene any measure taken in conformity with paragraph 30.01(6)(b), (c) or (d).

###### Marginal note:Infringement — provision of services

**(2.3)** It is an infringement of copyright for a person, by means of the Internet or another digital network, to provide a service primarily for the purpose of enabling acts of copyright infringement if an actual infringement of copyright occurs by means of the Internet or another digital network as a result of the use of that service.

###### Marginal note:Factors

**(2.4)** In determining whether a person has infringed copyright under subsection (2.3), the court may consider

* + **(a)** whether the person expressly or implicitly marketed or promoted the service as one that could be used to enable acts of copyright infringement;
  + **(b)** whether the person had knowledge that the service was used to enable a significant number of acts of copyright infringement;
  + **(c)** whether the service has significant uses other than to enable acts of copyright infringement;
  + **(d)** the person’s ability, as part of providing the service, to limit acts of copyright infringement, and any action taken by the person to do so;
  + **(e)** any benefits the person received as a result of enabling the acts of copyright infringement; and
  + **(f)** the economic viability of the provision of the service if it were not used to enable acts of copyright infringement.

(…)

## Exceptions

### Fair Dealing

###### Marginal note: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.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-29-20021231.html)

###### Marginal note: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.

(…)

### Non-commercial User-generated Content

###### Marginal note: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.

###### Marginal note: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*)

* 2012, c. 20, s. 22.

### Reproduction for Private Purposes

###### Marginal note:Reproduction for private purposes

* **29.22** **(1)** It is not an infringement of copyright for an individual to reproduce a work or other subject-matter or any substantial part of a work or other subject-matter if
  + **(a)** the copy of the work or other subject-matter from which the reproduction is made is not an infringing copy;
  + **(b)** the individual legally obtained the copy of the work or other subject-matter from which the reproduction is made, other than by borrowing it or renting it, and owns or is authorized to use the medium or device on which it is reproduced;
  + **(c)** the individual, in order to make the reproduction, did not circumvent, as defined in section 41, a technological protection measure, as defined in that section, or cause one to be circumvented;
  + **(d)** the individual does not give the reproduction away; and
  + **(e)** the reproduction is used only for the individual’s private purposes.
* **Meaning of medium or device**

**(2)** For the purposes of paragraph (1)(b), a **medium or device** includes digital memory in which a work or subject-matter may be stored for the purpose of allowing the telecommunication of the work or other subject-matter through the Internet or other digital network.

###### Marginal note:Limitation — audio recording medium

**(3)** In the case of a work or other subject-matter that is a musical work embodied in a sound recording, a performer’s performance of a musical work embodied in a sound recording or a sound recording in which a musical work or a performer’s performance of a musical work is embodied, subsection (1) does not apply if the reproduction is made onto an audio recording medium as defined in section 79.

###### Marginal note:Limitation — destruction of reproductions

**(4)** Subsection (1) does not apply if the individual gives away, rents or sells the copy of the work or other subject-matter from which the reproduction is made without first destroying all reproductions of that copy that the individual has made under that subsection.

* 2012, c. 20, s. 22.

### Fixing Signals and Recording Programs for Later Listening or Viewing

###### Marginal note:Reproduction for later listening or viewing

* **29.23** **(1)** It is not an infringement of copyright for an individual to fix a communication signal, to reproduce a work or sound recording that is being broadcast or to fix or reproduce a performer’s performance that is being broadcast, in order to record a program for the purpose of listening to or viewing it later, if
  + **(a)** the individual receives the program legally;
  + **(b)** the individual, in order to record the program, did not circumvent, as defined in section 41, a technological protection measure, as defined in that section, or cause one to be circumvented;
  + **(c)** the individual makes no more than one recording of the program;
  + **(d)** the individual keeps the recording no longer than is reasonably necessary in order to listen to or view the program at a more convenient time;
  + **(e)** the individual does not give the recording away; and
  + **(f)** the recording is used only for the individual’s private purposes.

###### Marginal note:Limitation

**(2)** Subsection (1) does not apply if the individual receives the work, performer’s performance or sound recording under an on-demand service.

###### Marginal note:Definitions

**(3)** The following definitions apply in this section.

**broadcast** means any transmission of a work or other subject-matter by telecommunication for reception by the public, but does not include a transmission that is made solely for performance in public. (*radiodiffusion*)

**on-demand service** means a service that allows a person to receive works, performer’s performances and sound recordings at times of their choosing. (*service sur demande*)

(…)

### Technological Protection Measures and Rights Management Information

###### Marginal note:Definitions

**41** The following definitions apply in this section and in sections 41.1 to 41.21.

**circumvent** means,

* **(a)** in respect of a technological protection measure within the meaning of paragraph (a) of the definition **technological protection measure**, to descramble a scrambled work or decrypt an encrypted work or to otherwise avoid, bypass, remove, deactivate or impair the technological protection measure, unless it is done with the authority of the copyright owner; and
* **(b)** in respect of a technological protection measure within the meaning of paragraph (b) of the definition **technological protection measure**, to avoid, bypass, remove, deactivate or impair the technological protection measure. (*contourner*)

**technological protection measure** means any effective technology, device or component that, in the ordinary course of its operation,

* **(a)** controls access to a work, to a performer’s performance fixed in a sound recording or to a sound recording and whose use is authorized by the copyright owner; or
* **(b)** restricts the doing — with respect to a work, to a performer’s performance fixed in a sound recording or to a sound recording — of any act referred to in section 3, 15 or 18 and any act for which remuneration is payable under section 19. (*mesure technique de protection*)
* R.S., 1985, c. C-42, s. 41;
* R.S., 1985, c. 10 (4th Supp.), s. 9;
* 1997, c. 24, s. 22;
* 2012, c. 20, s. 47.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-41-20021231.html)

###### Marginal note:Prohibition

* **41.1** **(1)** No person shall
  + **(a)** circumvent a technological protection measure within the meaning of paragraph (a) of the definition **technological protection measure** in section 41;
  + **(b)** offer services to the public or provide services if
    - **(i)** the services are offered or provided primarily for the purposes of circumventing a technological protection measure,
    - **(ii)** the uses or purposes of those services are not commercially significant other than when they are offered or provided for the purposes of circumventing a technological protection measure, or
    - **(iii)** the person markets those services as being for the purposes of circumventing a technological protection measure or acts in concert with another person in order to market those services as being for those purposes; or
  + **(c)** manufacture, import, distribute, offer for sale or rental or provide — including by selling or renting — any technology, device or component if
    - **(i)** the technology, device or component is designed or produced primarily for the purposes of circumventing a technological protection measure,
    - **(ii)** the uses or purposes of the technology, device or component are not commercially significant other than when it is used for the purposes of circumventing a technological protection measure, or
    - **(iii)** the person markets the technology, device or component as being for the purposes of circumventing a technological protection measure or acts in concert with another person in order to market the technology, device or component as being for those purposes.

###### Marginal note:Circumvention of technological protection measure

**(2)** The owner of the copyright in a work, a performer’s performance fixed in a sound recording or a sound recording in respect of which paragraph (1)(a) has been contravened is, subject to this Act and any regulations made under section 41.21, entitled to all remedies — by way of injunction, damages, accounts, delivery up and otherwise — that are or may be conferred by law for the infringement of copyright against the person who contravened that paragraph.

(…)

Provisions Respecting Providers of Network Services or Information Location Tools

**Marginal note:Notice of claimed infringement**

* **41.25** **(1)** An owner of the copyright in a work or other subject-matter may send a notice of claimed infringement to a person who provides
  + **(a)** the means, in the course of providing services related to the operation of the Internet or another digital network, of telecommunication through which the electronic location that is the subject of the claim of infringement is connected to the Internet or another digital network;
  + **(b)** for the purpose set out in subsection 31.1(4), the digital memory that is used for the electronic location to which the claim of infringement relates; or
  + **(c)** an information location tool as defined in subsection 41.27(5).
* **Marginal note:Form and content of notice**

**(2)** A notice of claimed infringement shall be in writing in the form, if any, prescribed by regulation and shall

* + **(a)** state the claimant’s name and address and any other particulars prescribed by regulation that enable communication with the claimant;
  + **(b)** identify the work or other subject-matter to which the claimed infringement relates;
  + **(c)** state the claimant’s interest or right with respect to the copyright in the work or other subject-matter;
  + **(d)** specify the location data for the electronic location to which the claimed infringement relates;
  + **(e)** specify the infringement that is claimed;
  + **(f)** specify the date and time of the commission of the claimed infringement; and
  + **(g)** contain any other information that may be prescribed by regulation.
* 2012, c. 20, s. 47.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-41.25-20121107.html)

**Marginal note:Obligations related to notice**

* **41.26** **(1)** A person described in paragraph 41.25(1)(a) or (b) who receives a notice of claimed infringement that complies with subsection 41.25(2) shall, on being paid any fee that the person has lawfully charged for doing so,
  + **(a)** as soon as feasible forward the notice electronically to the person to whom the electronic location identified by the location data specified in the notice belongs and inform the claimant of its forwarding or, if applicable, of the reason why it was not possible to forward it; and
  + **(b)** retain records that will allow the identity of the person to whom the electronic location belongs to be determined, and do so for six months beginning on the day on which the notice of claimed infringement is received or, if the claimant commences proceedings relating to the claimed infringement and so notifies the person before the end of those six months, for one year after the day on which the person receives the notice of claimed infringement.
* **Marginal note:Fees related to notices**

**(2)** The Minister may, by regulation, fix the maximum fee that a person may charge for performing his or her obligations under subsection (1). If no maximum is fixed by regulation, the person may not charge any amount under that subsection.

* **Marginal note:Damages related to notices**

**(3)** A claimant’s only remedy against a person who fails to perform his or her obligations under subsection (1) is statutory damages in an amount that the court considers just, but not less than $5,000 and not more than $10,000.

* **Marginal note:Regulations — change of amounts**

**(4)** The Governor in Council may, by regulation, increase or decrease the minimum or maximum amount of statutory damages set out in subsection (3).

* 2012, c. 20, s. 47.

[Previous Version](http://laws-lois.justice.gc.ca/eng/acts/C-42/section-41.26-20121107.html)

**Marginal note:Injunctive relief only — providers of information location tools**

* **41.27** **(1)** In any proceedings for infringement of copyright, the owner of the copyright in a work or other subject-matter is not entitled to any remedy other than an injunction against a provider of an information location tool that is found to have infringed copyright by making a reproduction of the work or other subject-matter or by communicating that reproduction to the public by telecommunication.
* **Marginal note:Conditions for application**

**(2)** Subsection (1) applies only if the provider, in respect of the work or other subject-matter,

* + **(a)** makes and caches, or does any act similar to caching, the reproduction in an automated manner for the purpose of providing the information location tool;
  + **(b)** communicates that reproduction to the public by telecommunication for the purpose of providing the information that has been located by the information location tool;
  + **(c)** does not modify the reproduction, other than for technical reasons;
  + **(d)** complies with any conditions relating to the making or caching, or doing of any act similar to caching, of reproductions of the work or other subject-matter, or to the communication of the reproductions to the public by telecommunication, that were specified in a manner consistent with industry practice by whoever made the work or other subject-matter available through the Internet or another digital network and that lend themselves to automated reading and execution; and
  + **(e)** does not interfere with the use of technology that is lawful and consistent with industry practice in order to obtain data on the use of the work or other subject-matter.
* **Marginal note:Limitation**

**(3)** If the provider receives a notice of claimed infringement, relating to a work or other subject-matter, that complies with subsection 41.25(2) after the work or other subject-matter has been removed from the electronic location set out in the notice, then subsection (1) applies, with respect to reproductions made from that electronic location, only to infringements that occurred before the day that is 30 days — or the period that may be prescribed by regulation — after the day on which the provider receives the notice.

* **Marginal note:Exception**

**(4)** Subsection (1) does not apply to the provision of the information location tool if the provision of that tool constitutes an infringement of copyright under subsection 27(2.3).

* **Marginal note:Factors  —  scope of injunction**

**(4.1)** If it grants an injunction as set out in subsection (1), the court shall, among any other relevant factors, consider the following in establishing the terms of the injunction:

* + **(a)** the harm likely to be suffered by the copyright owner if steps are not taken to prevent or restrain the infringement; and
  + **(b)** the burden imposed on the provider and on the operation of the information location tool, including
    - **(i)** the aggregate effect of the injunction and any injunctions from other proceedings,
    - **(ii)** whether implementing the injunction would be technically feasible and effective in addressing the infringement,
    - **(iii)** whether implementing the injunction would interfere with the use of the information location tool for non-infringing acts, and
    - **(iv)** the availability of less burdensome and comparably effective means of preventing or restraining the infringement.
* **Marginal note:Limitation**

**(4.2)** A court is not permitted to grant an injunction under section 39.1 against a provider who is the subject of an injunction set out in subsection (1).

* **Meaning of *information location tool***

**(5)** In this section, ***information location tool*** means any tool that makes it possible to locate information that is available through the Internet or another digital network.