

Raw Law

Your art. Your rights.



Inside Raw Law

	What is Raw Law about?	5
	What is copyright?	7
	What are moral rights?	13
	What is a contract?	15
	Legal information for visual artists	19
	Legal information for musicians	23
	Legal information for writers	29
	Legal information for film and video makers	33
	Legal information for performers	37
	How do you protect your work on the internet?	41
	Taking action: what are the legal steps?	45
	Key words	47
	Legal help: who can you go to?	51



Message from Arts Access Victoria

I am proud to be able to introduce you to Raw Law - a landmark project that underpins the work of a large and diverse community of artists with disabilities, including artists with psychosocial disabilities (mental health issues).

Raw Law is all about giving these artists access to legal information communicated to them in ways never before seen in Australia.

Article 30 of the United Nations Convention on the Rights of Persons with Disabilities guarantees the right to participation in cultural life. Arts Access Victoria is committed to the full implementation of the UNCRPD and Raw Law is one way of ensuring this.

Raw Law offers a range of accessible legal information, real-life situations and legal tips that gives artists in this sector a opportunity to better understand their rights, and how to act on them.

Raw Law exemplifies Arts Access Victoria's long-standing commitment to Victorian artists with disabilities, and their crucial contribution to our arts and cultural sectors.

A handwritten signature in black ink, appearing to read 'Lesley Hall'.

Lesley Hall

Chairperson

Arts Access Victoria

Acknowledgements

Arts Access Victoria thanks the Legal Services Board of Victoria for their financial support of Raw Law.

We also thank the Robyn Ayres and Rebecca Laubi from the Arts Law Centre of Australia and the Australian Copyright Council for their important role in giving legal advice and consultation throughout the development of this project.

Scope Victoria's Communications Resource Centre and the Inner South Communication Service have provided important advice and consultation to ensure that the language and other access strategies for Raw Law meet best practice standards.

Arts Access Victoria also wishes to thank the many individuals and organisations who participated in community consultations; gave generously of their time to discuss legal issues; provided copies of documents and contracts for consideration regarding best practice; and responded openly to our enquiries relating to their work practices.

Looking ahead, the commitment of commercial law firm Middletons will ensure that Raw Law maintains a strong legal foundation from which to grow and evolve.



????





What is Raw Law about?

Raw Law explores the main legal issues for:

- artists
- musicians
- writers
- video and film makers
- performers
- other creative people who share their work in public

It is important to know about your legal rights if you are a creative person.

The aim of Raw Law is to provide accessible legal information for people who experience major barriers to participating in the arts, in particular:

- artists with disabilities
- artists who experience mental health issues
- artists from culturally and linguistically diverse backgrounds
- artists from rural and remote communities
- Indigenous artists
- artists who are disadvantaged

Raw Law provides basic information on:

- the importance of copyright and moral rights
- how to protect the work you make
- why you should get contracts in writing
- where to go for legal advice
- where to find more information

How do you access Raw Law?

There are three ways you can access Raw Law:



1. Folder

Written introduction to arts law issues, with:

- clear language and explanations
- visual scenarios
- accessible design and layout
- also available in large print, Braille and audio upon request

Words in **blue** are explained in the **Key words** section on page 47

2. DVD

Visual introduction to arts law issues, with:

- a person explaining arts law issues
- stories that show real-life situations
- closed captioning and an Auslan signed menu option
- audio described menu option

@ 3. Internet

Online introduction to arts law issues, with:

- an accessible, user-friendly website
- information you can download
- extra information
- links to other websites

Arts Access Victoria
www.artsaccess.com.au/rawlaw

The Arts Law Centre of Australia
www.artslaw.com.au



Ryan New performing in Raw Law DVD.
Photographer: Rob Wellington





What is copyright?

Copyright is a bundle of rights which visual artists, musicians, writers and video and film makers own in relation to their work. It exists in every kind of creative work you can imagine.

Copyright exists automatically once you create a work and is free.

Copyright can be shown by a symbol that looks like this: ©

Copyright is one of the most powerful rights you can own as a creator. It enables you to:

- control your work
- get money for your work

Copyright can be owned by anyone who creates a work, including:

- visual artists
- musicians
- writers
- video and film makers
- performers

Copyright gives you:

- ownership rights relating to your work
- automatic and free legal protection as soon as you create your work
- the support of Australian and international laws

Copyright does not protect ideas and styles. For copyright protection to exist you must express your idea in some **physical material or digital form.**

What does copyright mean?

Copyright means that only you have rights to do certain things with your work. You have the right to:

- reproduce or copy your work
- communicate your work to the public, for example by broadcasting (TV, radio), by email or on the internet
- publish your work
- perform your work
- adapt your work

Other people need your permission to do any of these things, even if they have bought or own the original work. This is because copyright ownership is different from ownership of the **physical work** you created.

For example, if you create an oil painting on canvas, the physical work is the canvas with the oil paint you used. You own it until you have sold it or given it to someone else. Once you have done that, you do not have ownership of the physical painting but you still own copyright in relation to the image you painted.

How long does copyright last?

Copyright begins when a work is created. It continues for your lifetime and for up to 70 years after your death.

What does copyright protect?

Copyright protects the following categories of creative works:

Artistic works

- paintings
- drawings
- engravings
- photographs

- sculptures
- installations
- cartoons and graphic art
- craftwork
- maps and plans

Dramatic works

- choreography
- theatre plays
- screenplays
- mime

Musical works

- melodies
- tunes
- compositions

Literary works (material in text form)

- short stories or novels
- poems
- song lyrics
- scripts
- letters or articles in a newspaper
- reports

Sound recordings

- compact discs (CDs)
- tapes
- digital recordings

Broadcasts

- television
- radio
- internet podcasts

Films

This protects the visual images and sounds in films, videos and DVDs, including:

- short films
- feature films
- documentaries
- corporate or training videos

Licences

For someone to use your work, you must first give them your permission. When you give permission to use your work, you should use a written **licence**.

If a theatre director wants to use your painting for the set of a play, or a composer asks to use your poem for a song you would ask them to draft a license or contract. You can learn more about this in the **What is a Contract?** section on page 15.

Copyright infringement

A copyright **infringement** is when someone does not ask your permission before using, changing or showing your work for the first time.

Learn how to protect yourself against a copyright infringement in **Taking action: what are the legal steps?** on page 47.

Summary

- Copyright automatically gives you, the creator of a work, legal protection and is free.
- © is the symbol used to show copyright. It shows that your work is protected. Write it by putting a circle around a 'c'.
- Copyright lasts for your lifetime and up to 70 years after your death.
- Nobody can use or change your work, unless you say they can.
- If you say that someone can use your work, or if someone says you can use their work, it is best to make a contract in writing.
- No one is allowed to use your work without your permission. If someone uses your work without your permission, this is called copyright infringement. The law gives you protection if your copyright is infringed.

★ Legal tips

Keep drafts, photos, sketches or notes about your work. These are proof of you creating your work.

Show you own the copyright by adding to your work:

- the copyright notice: ©
- your name
- the year you made it

Example: © Name Surname 2010.

A visual artist would put this on the back of an artwork.

A film maker would put this in the end-credits of a film.

A musician would put this on a CD.

There are situations where you might not own copyright, for example:

- if you are employed to create a work
- if you are paid to make portraits or photographs for private use

If someone has infringed your copyright, take action straight away.

**“Copyright
protects
you and
your work”**



????



? What are moral rights?

Moral rights are personal rights that connect the creator of a work to their work. Moral rights are about being properly named or credited when your work is used, and the way your work is treated and shown.

Moral rights require that your name is always shown with your work. This is called **right of attribution**. For example:

- your name should always appear next to your artwork in an exhibition
- your name should always appear in the credits of a film you performed in
- your name should always appear with any writing you have published

Moral rights also require that your work is not treated in any way that hurts your reputation. This is called **right of integrity**. For example, it means that:

- no one can change your work without your permission
- no one can destroy your work without first asking you if you want to take it back
- no one can show your work in a way that damages its meaning

Who has moral rights and how long do they last?

Anyone who creates artistic works, dramatic works, musical works, literary works or films have moral rights in relation to their work.

Performers in live performances or in recorded performance also have moral rights relating to their performance.

Moral rights begin when a work is created. They continue for your lifetime and for up to 70 years after your death.

Moral rights infringement

Moral rights **infringement** is when you have not been properly named or credited when your work is used. If someone has treated your work in a way that hurts your reputation, this is called **derogatory treatment**.

You have the right to protect yourself against moral rights infringements. Learn how to protect yourself against a moral rights infringement in **Taking action: what are the legal steps?** on page 45.

Summary

- Moral rights are about keeping the connection between you and your work.
- You have moral rights in relation to the work you create.
- You have the right to be recognised, or named, as the creator of your work.
- No one should do anything to your work that hurts your reputation.
- You cannot give away your moral rights. They are for you only.
- Moral rights last for your lifetime and up to 70 years after your death.
- If someone does not show your name with your work, or treats your work in a way that hurts your reputation, this is called a moral rights infringement.

★ Legal Tips

If your artwork is shown in public these details should be near it somewhere, or in a catalogue:

- your name
- title of artwork (in italics)
- the materials used in the artwork
- the year the work was made

For example: Name Surname, *Still Life*, Acrylic paint on canvas, 2010

- If someone has infringed your moral rights, take action straight away.



Rebecca Scibilia at work, Arts Project Australia.
Photographer: Penelope Hunt





What is a contract?

A **contract** is like a promise between people. It is an understanding, a deal between two or more people or organisations to do certain things. Each person or organisation who agrees to do something in a contract is called a **party**.

An agreement, or a contract, says what you and the other person or organisation have agreed to do. It is a written list of the promises you have made. The best form of contract is written on paper and signed by each party.

Some examples of contracts include:

- **Entry forms:** when you enter your work into an exhibition, festival or competition
- **Consent / Release forms:** when someone wants your permission to show images of you or your work in public
- **Gallery agreements and publishing licences:** when showing work in a gallery, or if your work is published
- **Funding agreements:** when you receive funding
- **Studio agreements:** when working in a supported studio or a program run by an organisation

Why is a contract used?

A contract is used when people or organisations have agreed to do something together. A contract is often used to:

- say what is expected of you
- say what you expect of the other person or organisation
- protect each other's needs and rights
- make each party more responsible for what that party promises to do
- say what happens if a party does not keep its promise.

What should you do before making a contract?

Before making a contract:

- Make sure you understand what is promised to you and what you are promising. You have the right to ask that a contract is explained to you with simple words before signing it. You could also ask someone you trust to read it and explain it to you.
- The contract and any explanation of its meaning should meet your communication needs. You have the right to ask that a contract is provided in alternative formats, such as:
 - Braille
 - large print
 - Auslan interpretation
- Make sure that the contract really protects your interests.
- Only make promises which you can keep.
- Write your contract down and make sure that everyone involved has signed it.
- Get legal advice, to make sure that the contract is a good one for you.

What happens if you or the other person, organisation or party does not follow the contract?

If a person, organisation or party does not keep its promise they are in breach of your contract.

Learn how to protect yourself if an agreement has been breached in **Taking action: what are the legal steps?** on page 45.

Summary

- Make sure you understand what is promised to you and what you are asked to promise before agreeing to anything.
- Ask questions and get legal advice if you don't understand a document.
- A good contract should say:
 - what you and the other party needs
 - what you and the other party promise to do
 - what responsibilities you and the other party have
 - when each party will do the things it has promised to do
 - what will happen if a party does not keep its promise
- You have rights if the other party to the contract does not keep its promise.

★ Legal tips

- Never sign anything that you don't understand.
- Never sign anything that you don't agree with.
- Do not promise something that you cannot provide.
- Put your contract in writing.
- Always keep a copy of all documents that you sign.

**“A contract is a
like promise.
Get it in writing.”**



????





Legal information for visual artists

What are your rights as a visual artist?

If you are a visual artist, this chapter will help you learn about important legal issues that affect you and your work. Most legal issues that visual artists come across are about copyright and moral rights. Whether you make art just for pleasure or you want to make money from your work, this information will help you protect your rights.

The information in this chapter applies to a whole range of art forms, including:

- drawing
- painting
- engraving
- printmaking
- photography
- digital art
- sculpture
- installations
- cartoons and graphic art
- craftwork

© Copyright for visual artists

Copyright is about important rights that only you have in your work.

As a visual artist, you have the right to:

- reproduce or copy your work
- publish your work in a book, magazine or newspaper
- communicate your work, for example, put your artwork on the internet.

Other people will need your permission or a **licence** if they wish to do these things.

Copyright is important because it:

- protects your work against use by others without your permission
- allows you to get money for your work

Copyright and use of your work

It is important for you not to lose ownership or control of your copyright. When you give someone permission to use your work, you can ask for money in exchange.

Copyright and employed or commissioned visual artists

If you are paid to make an artwork, portrait or photograph for private use by someone else, you probably won't own the copyright. The person paying for this work will be the copyright owner.

Moral rights for visual artists

Moral rights are personal rights that connect the creator of a work to their work.

As a visual artist, moral rights mean that:

- people must know you are the creator of your work if it is shown in public
- no one else can be named as the creator of your work
- your work cannot be treated in a way that hurts your reputation

You should have an opinion on how your work is to be shown and how your name appears with your work. If someone is going to show your work in public make sure you tell them how you want it to be seen by other people.

Exhibitions, festivals and competitions

If you enter your work in an exhibition, festival, art prize or competition there are usually **conditions of entry** which you are asked to agree to before sending your work.

Make sure that you have received, read and understood the conditions of entry before sending any work to the organisers. Get legal advice if there is anything you do not understand or do not agree to.

Summary

- Usually, you own the copyright in visual works you create.
- You always have moral rights in relation to your work.
- Copyright is shown by the letter 'c' in a circle, followed by your name, and the year you made that work.
For example: © Name Surname 2010. (A good place for this is on the back of an artwork).
- If your work is shown in public you should have the following information somewhere near it, and in any catalogue:
 - your name
 - title of artwork (in italics)
 - the materials used in the artwork
 - the year the work was made
- No one should use your work without your written permission or licence.
- When you put a work in an exhibition, festival, art prize or competition, make sure you sign a fair and balanced contract with the organisers.

★ Legal tips

- You are allowed to say what permission you will give and negotiate a payment of money in exchange for your permission.
- If you are giving permission to use your work or are employed by someone to create art, write down what you have agreed.
- Always have a written contract between you and a gallery or exhibition organiser.
- Get legal advice. Do not sign or agree to anything you do not understand.
- If you are employed to create work, or paid to make a portrait or photograph, you probably won't own the copyright. But remember that you still have moral rights. You must still be credited as the artist if your work is shown in public.

**“Copyright is
about important
rights that only
you have in
your work.”**



????

VERY LOW RESOLUTION

Legal information for musicians

What are your rights as a musician?

Whether you just make music for fun or are making a career out of it, you need to be aware of some important legal issues. The main legal issues in the area of music are copyright and moral rights.

This might apply to you if you are a:

- musician
- singer
- songwriter
- DJ
- composer
- sound engineer
- producer

© Copyright for musicians

Copyright is about important rights that only you have in your work. Musicians have three main rights:

1. Reproduction rights

Reproduction rights allow you to record your songs on a CD, for a film, or to put your music on the internet.

2. Performance and communication rights

Performance and communication rights are used when you:

- broadcast music on TV or radio
- play a song live or in a recorded form
- put your music on the internet

Performance and communication rights are important if a radio station wants to broadcast your music, or if you want to do a live cover of a famous song.

3. Adaptation rights

Adaptation rights are used when someone re-writes your song so that the tune is played, with different instruments or when someone changes your song by adding new parts to it.

Other people need your permission or **licence** to do these things.

Copyright is important because it:

- protects your work
- allows you to get money for your work.

Every piece of music is protected by copyright, and can be broken down into three important parts:

- copyright in the music itself
- copyright in the lyrics of a song
- copyright in any sound recording of the music.

Moral rights for musicians

Moral rights are personal rights that connect the creator of a work to their work.

As the composer of music or writer of the lyrics of a song, you have the moral right to:

- be acknowledged by mentioning your name with your work
- stop anyone else from being named as the creator of your work
- protect yourself if your music or song is treated in any way that hurts your reputation.

Contracts

Whether you are a composer, song writer or performing musician, contracts can help to protect you, and your work.

Before publishing music, or recording songs, make sure that you have put all your contracts in writing. Two common contracts used by musicians are:

1. Music publishing contracts

Music publishing contracts are used when someone wants to make your music available to be played by others, such as a recording or a live concert.

2. Recording contracts

Recording contracts are used when musicians or songwriters want to record their work with a record company. When someone talks about 'a record deal', this is the contract they are talking about.

Music sampling

Sampling is about using a part of another musician's work, such as:

- lyrics
- melodies
- rhythms
- the recording itself

Sampling is only legal if you have been given permission to use the sampled material from:

- the owner of the copyright in the music
- the owner of the copyright in any lyrics
- the owner of the copyright in the sound recording

You have sampled someone's work if it is still noticeable as their work, even if you have changed it.

Digital music and piracy

Making your work available to buy on the internet is an easy way to market your music, while still making sure that you are being paid for your work. But the negative side of this is internet **piracy**. This means that if you put your music on the internet someone may download and use your work without asking you. This is illegal.

Many people believe they can use materials available online in any way. This is not true. You need the permission of the copyright owner to use material protected by copyright.

If you want to put your music on the internet there are ways to protect your work, such as using low-quality recordings. Learn more about this by looking at: **How do you protect your work on the internet?** on page 41.

Music collecting societies and royalties

Music collecting societies look after and manage the copyright of musicians.

For example, if you wanted to sample someone else's song in your music, you would ask permission from a collecting society. If you register yourself with a collecting society, they will look after your copyright and give permission to people who want to pay money to use your songs. These are called **royalties**.

Australia has two main collecting societies for musicians:

Australasian Performing Rights Association (APRA)

If you have registered your songs with APRA and someone wants to play your songs live, they will ask APRA for permission. APRA will charge them a fee and will pay you part of that fee.

Australasian Mechanical Copyright Owners Society (AMCOS)

If you have registered your songs with AMCOS and someone wants to make their own recording of your songs, they will ask AMCOS for permission. AMCOS will charge them a fee and will pay you part of that fee.

Summary

- A single piece of music can have up to three layers of copyright:
 - copyright in the music
 - copyright in the lyrics
 - copyright in the recording
- You own copyright in the music you compose and songs you write.
- Use the copyright notice to show that you are the owner of your work. For example: © Name Surname 2010.
- You always have moral rights in relation to your music.
- You own copyright, with the maker of the sound recording, in the sound recording of any song you record.
- No one should use your work without your permission or licence. If you give permission for someone to use your work, you can ask for payment.
- Collecting societies can help you to manage musical copyrights and collect royalties.
- Before sampling someone else's music or using it in a recording, you must get their permission.
- Be aware of the risk of piracy when you upload your music on the internet.

★ Legal tips

- Even if you don't own the copyright, remember that you still have moral rights. You must be credited when your music is performed.
- Any contract you make with music publishers and record companies should be in writing.
- Do not sign or agree to anything you do not understand.
- Get legal advice on any contract.

**“Moral rights
connect the
creator of
a work to
their work.”**



Cathy Craig at work, Art Day South project.
Photographer: Adam Rozsa

Rhian made sporty into
I how live one with Rhian
Parents so travelling across they were so people
came though space we
thought they were scary
because we never seen
before which in turn
very much, I were so Rhian
and that we hid very
the ~~pep~~ to people our
tried live with scare who
and Aliens
seen no much
id ho ch
we
into
at us
re we
we



Legal information for writers

What are your rights as a writer?

By knowing your legal rights as a writer, you will be able to better protect your work. The main legal issues that affect writers are copyright and moral rights. These apply to:

- short stories
- novels
- memoirs
- blogs
- screenplays
- theatre scripts
- poetry
- articles
- essays
- diaries.

© Copyright for writers

Copyright is about important rights that only you have in your work.

Copyright in your written work gives you the right to:

- copy it
- publish your work for the first time
- perform your work in public
- communicate your work — for example, put an article on the internet
- change or make an **adaptation** of your work.

Other people need your permission or **licence** to do these things.

Copyright is important because it:

- protects your work against use by others without your permission
- allows you to get money for your work.

Remember that ideas are not protected by copyright. Your ideas are not protected until you have put them into writing.

Moral rights for writers

Moral rights are personal rights that connect the creator of a work to their work.

As a writer, you have the moral right to:

- be acknowledged by showing your name with your work
- stop anyone else from being named as the creator of your work
- protect yourself if your work is treated in any way that hurts your reputation.

Contracts

Writers and publishers will most often use these two contracts:

1. Publishing agreement

If you publish a text, for example a novel, the publishing contract says what your and the publisher's rights and obligations are.

2. Option and Purchase contracts

Option and Purchase contracts are useful if someone wants to make a film based on your novel, memoir or short story.

Blogging

Whatever you write in a **blog** is protected by copyright, which you own. If you want to use work from other people in your blog, you must get the copyright owner's permission.

Be careful with what you write and publish, especially if you want to express a strong opinion about someone. If you write something that lowers a person's reputation they can take legal action against you for **defamation**.

Summary

- You own copyright in any text you write.
- You always have moral rights in your written work.
- If you show your work to anyone, or send it to a publisher, always include the following details with what you have written:
 - the copyright notice: ©
 - your name
 - year you wrote the text

For example: © Name Surname 2010

- No one should use your work without your permission or licence. If you give permission for someone to use your work, you can ask for payment.

★ Legal Tips

- Assigning copyright means selling your copyright.
- Do not assign your copyright if you can license it instead.
- If you license your work, make sure that your contract clearly says the uses you allow. Put the © notice, your name and the year on a cover page and at the bottom of each page of any manuscripts.
- Get legal advice on any contract.
- A good contract should be fair, and you should be happy with it before you sign anything.

**“Get legal
advice on any
contract.”**



David Williams filming 'Blue Bye You'.
Photographer: Adam Rozsa





Legal information for film and video makers

What are your rights as a film or video maker?

Whether you are making a low-budget short film, a documentary, or a Hollywood blockbuster, you need to know about some important legal issues that can affect you. This chapter focuses on copyright, copyright clearance and moral rights for people working in film and video, including:

- script writers
- directors
- producers
- actors
- lighting and sound operators
- production designers
- composers
- editors
- people working in post-production

© Copyright for film and video makers

Copyright is about important rights that only you have in your work.

Copyright in your film gives only you the right to:

- make a copy of it
- cause the film to be seen and heard in public
- communicate the film to the public, such as on TV or the internet

Other people need your permission or **licence** to do these things.

The person who makes the arrangements for the film to be made, usually the producer and director, owns copyright in a film.

Copyright is important because it:

- protects your work against use by others without your permission
- allows you to get money for your work.

Copyright clearance

At some stage, you may want to use copyright material owned by others in a film or video of your own. Before using other people's work, you will need their permission. That is, they must say "Yes" first.

When you seek the permission of a copyright owner, this is called **copyright clearance**.

Copyright clearances are needed for:

- screenplays
- written works that are read out loud, or seen
- music that is used on a soundtrack
- artistic works that are seen in a film
- footage from another film or video, including news footage
- parts of other films you might include in your film.

With a screenplay or music for example, you need the permission from the copyright owner to use that material.

Clearances are important for two main reasons:

- They make sure that you do not infringe the rights of others
- Many film festivals, funding bodies and distributors will need to see your clearances before they agree to work with you.

Moral rights for film and video makers

Moral rights are personal rights that connect creators of a work to their work.

As a film maker you have the moral right to:

- be acknowledged — that is, have your name listed in the credits
- stop anyone else from being named as the producer, director or screenwriter of the film
- protect yourself by taking legal action if your film is treated in any way that hurts your reputation.

If you have included the work of other people in your film you must respect their moral rights by listing them in the credits.

Getting permission to film people and places

Before filming, you must also get permission from the performers who appear in your production. Using a **consent form** is the best way to do this. A consent form should explain:

- what the project is
- what you are filming
- what you expect of them
- how they will be seen or heard in the finished edit

You will also need to get permission to film on private property and sometimes on some public land.

Summary

- Make sure you get permission from any copyright owner whose work appears in your production. You need to get copyright clearance if you want to use:
 - a book, short story or play as the basis for your production
 - footage or music
- Performers or anyone who appears as a cast-member in a shot must agree to being filmed.
- You must obtain permission to film on private property.
- Make sure that you have all contracts written down and signed before you begin working on a film.
- Credit any contributor to your production with:
 - their correct name
 - their role in the production

★ Legal Tips

- You might need copyright clearance even if you use a very small part of someone else's copyright protected work
- **Assigning copyright** means selling your copyright. In the film industry it is normal for a screenwriter to assign the rights of their film script to a film company. Do not sign or agree to anything you do not understand.
- Get legal advice on any contract.

“Get clearances
and all contracts
signed before
starting your film.”



Joanna Agius in 'Sound of Silence', Deaf Can Dance.
Photo:Tatjana Plitt





Legal information for performers'

What are your rights as a performer?

The legal issues most performers come across are copyright, moral rights, and performers' reproduction and communication rights.

This chapter looks at the important things you need to know if you are a performer involved in:

- music
- theatre
- acting
- dance
- performance art
- circus performance
- variety acts

Performers reproduction and communication rights

If you are a performer, you must give your permission before anyone records (by audio or video) your performance and communicates it to the public.

© Copyright for performers

Copyright is about important rights that only you have in your work.

As a performer, you own copyright in a sound recording of your live performance together with the person who makes the recording.

As the owner of copyright in a sound recording, you have the right to:

- make a copy of it
- have the recording heard in public
- communicate the recording to the public.

Other people need your permission or **licence** to do those things.

Copyright is important because it:

- protects your work against use by others without your permission
- allows you to get money for your work.

It is important not to give away copyright when you say "Yes" to someone recording your performance.

If you want to use copyright protected material that belongs to other people in your performance, you must get the permission from the copyright owner to use that material.

Moral rights for performers

Moral rights are personal rights that connect the creator of a work to their work.

As a performer you have the moral right to:

- be identified as a performer of the performance
- stop anyone else from being identified as the performer of your performance
- protect yourself if your performance is treated in any way that hurts your reputation.

The audience should know that you are a performer in a performance. For example, your name should be shown in a theatre program or as a credit in a documentary or film.

Contracts

If you are in a performance, it is important to have a contract that says:

- any payment you will receive
- how you will be credited
- if you consent to the performance being recorded.

Summary

- Reproduction and communication rights mean that you should give your permission before anyone records and shows your work in public.
- You must give your permission before someone can film or audio-record your performance.
- If you agree to something in a production, get it in writing.
- You should be properly identified or credited as the performer of your performance.
- Your performance, including any recording of your performance, must be treated with respect.
- You share copyright in a sound recording of your performance with the person who made the recording.

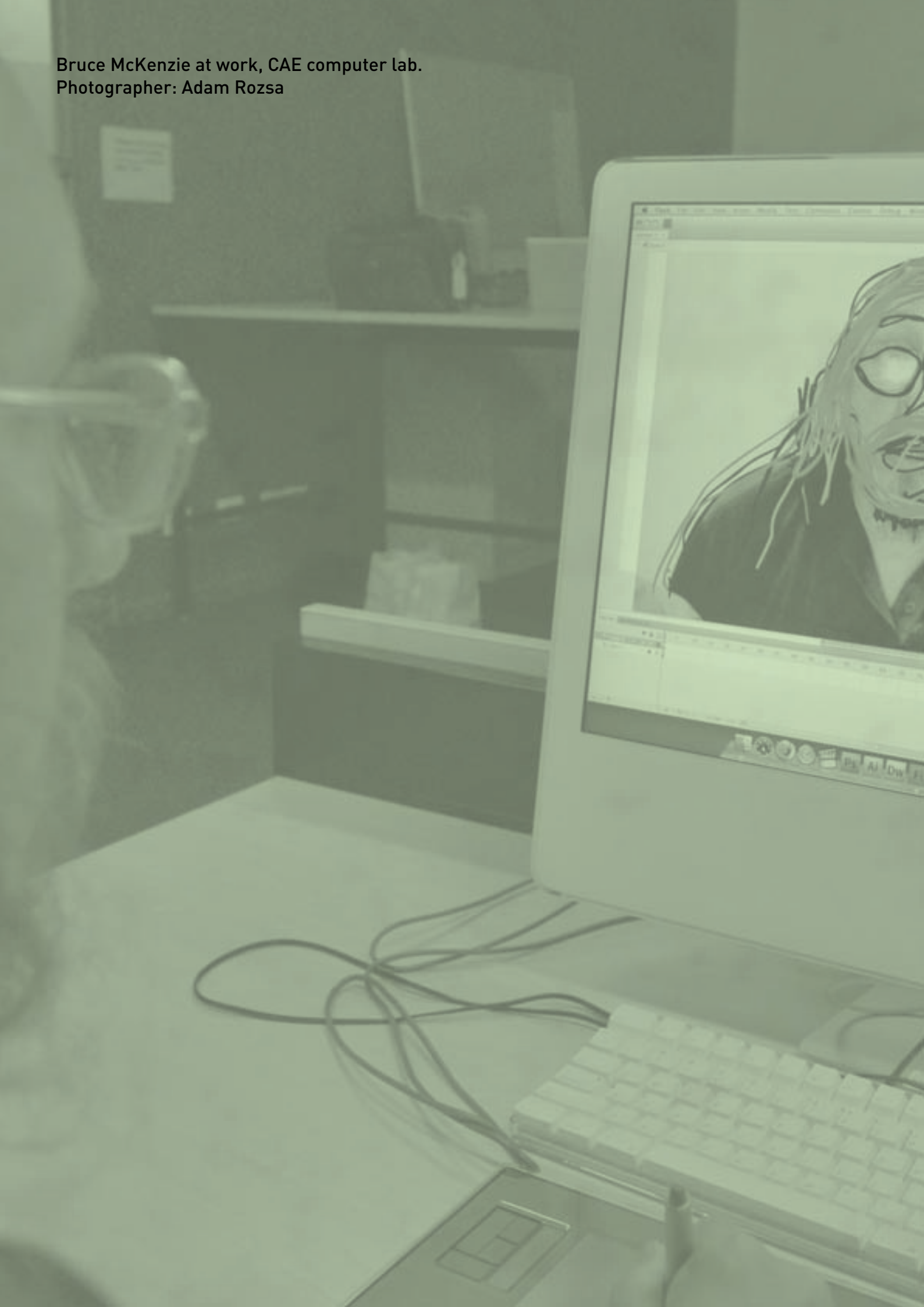
★ Legal Tips

- If you consent to the recording and/or communication of your performance, make sure you know and understand what the person making the recording will do with it.
- You can ask for money in exchange for your consent as a performer.
- If you want to use someone else's songs, music or text, in your performance, you must get the permission from the copyright owner first.
- Do not sign or agree to anything you do not understand.
- Get legal advice on any contract.

**“Get permission
from performers
with a consent
form.”**



Bruce McKenzie at work, CAE computer lab.
Photographer: Adam Rozsa





How do you protect your work on the internet?

As a creator, the great thing about the internet is that you can upload your work and share it with people around the world for very little cost. However, people can illegally download and copy your work without your permission. This is why it is very important to protect the words, images, music and films you put on the internet.

This information will be helpful if you use the internet in the following ways:

- showing your artworks on websites
- sharing your videos or films
- using other people's words, images and information in your own work
- blogging or writing your thoughts, comments or ideas on websites
- communicating with friends on **social networking** sites.

The main legal issues on the internet are copyright and piracy.

© Copyright

Copyright is about important rights that only you have in your work.

Other people need your permission or **licence** to do those things.

Copyright is important because it:

- protects your work against use by others without your permission
- allows you get money for your work.

Copyright laws protect electronic versions of your work as much as your 'real' or material work such as painting or photograph.

Piracy

With digital technology, it is very easy for people to copy or use other people's work without permission. This happens a lot with music or film on the internet.

Everyday, people use the internet to copy and share other people's work for free, and without permission. This is called **piracy**.

Protecting your work

There are ways to protect material you upload on the internet from being used without your permission:

To protect your **visual art**, you can:

- add a visible watermark to your images before uploading them
- disable right-click
- add invisible information to your images online
- tell users that a high quality version is available to buy
- upload low-resolution images only — no more than 72dpi
- put the © notice with your name next to your work.
- give people the possibility to contact you — for example, by showing your email address. It will be easier for someone to ask for your permission to use your work.

To protect your **music**, you can:

- hide information into your music — this is called digital watermarking
- upload low-quality recordings only — a compression rate less than 49 kilobits per second
- tell users that a high quality version is available to buy
- attach the © notice with your name next to your recordings
- give people the possibility to contact you — for example, by showing your email address. It will be easier for someone to ask for your permission to use your work.

To protect your **film**, you can:

- hide information to track your film — this is called digital fingerprinting
- upload low quality versions only — a compression rate less than 151 kilobits per second for video and 49 kilobits per second for the sound

- tell users that a high quality version is available to buy
- put the © notice with your name into your film
- give people the possibility to contact you — for example, by showing your email address. It will be easier for someone to ask for your permission to use your work.

Summary

- The internet is a very public place for showing your work. Millions of people use the internet, and have access to anything that you put there.
- Showing your work on the internet can increase the risk of someone copying your work without your permission.
- Australian copyright law protects most things on the internet, including your work.
- It is illegal to download or share copies of images, songs, movies, or TV shows without the copyright owner's written permission.
- Put the copyright notice, your name, and the year to anything you upload, for example: © Name Surname 2010.
- Only put low-quality versions of images, sound recordings or video on the internet.
- You can protect your work by:
 - providing your contact details and how to buy your work – email is usually best
 - adding a visible watermark to your images before uploading
 - disabling right clicking to make it harder to copy an image.

★ Legal Tips

- Work out what uses of your work you will allow before putting any material online: for example:
 - can people buy it online?
 - can people download it?
 - is it available for private use only, or can it be used in public?
- Make sure that people know you are the copyright owner of your work and what they can do with your work.
- Use a search engine to see if other people are using your material.
- If your copyright is infringed get legal advice and take action. Learn more about how to take action on the following pages.

**“Protect your
work from piracy.”**



Paul Matley performing at Club Wild.
Photographer: Phil Heuzenroeder



! Taking action: what are the legal steps?

Infringement of your copyright

When someone does not ask or get your permission to do certain things with your work it is called a **copyright infringement**.

If you think someone has infringed your copyright, you can take action against them. The following steps explain how to do this.

STEP 1

Talk to someone you trust.

Talk to a friend, carer or family member about your concerns. Getting their opinion will help you work out the situation and confirm your feelings. If they agree that there is a problem, seek legal advice.

If you are told there is no problem, but things still feel wrong to you, get a second opinion.

STEP 2

Contact the person or organisation you are unhappy with.

Contact the person or organisation you are unhappy with, either by phone or in writing. Explain the situation as you see it. There may be an easy way to fix the problem. Asking someone to help you do this is a good idea.

STEP 3

Seek legal advice.

If you have not been able to fix the problem by talking to the person or organisation you are unhappy with, get legal advice.

You must give the facts of the situation, such as:

- your personal and contact details
- what happened
- when it happened.

The person helping you will work out if a copyright infringement has taken place. They will help explain the steps you need to take to protect your rights.

Send a letter of demand for breach of copyright.

STEP 4



Send a **letter of demand** for breach of copyright to the person or organisation who has infringed your copyright.

A letter of demand for breach of copyright will show that:

- you told that person or organisation of your rights
- you gave the person or organisation a chance to fix the problem.

Usually problems are fixed without going to court, by discussion or negotiation.

Going to court.

STEP 5



If the person or organisation has not fixed the problem through discussion, the next step is to take legal action in a court.

If the court agrees that an infringement has occurred, it can make an order saying:

- you must get a public apology
- you must be paid money for the harm caused to you — this is called damages
- the person must stop the infringement — this is called an injunction.



Gerard Vacirca rehearsing at the Frankston Arts Centre.
Photographer: Adam Rozsa



Key words

A-Z

Adaptation

Change work from one form to another, such as:

- writing a play from a novel
- making a comic strip from a play
- creating a pop song from a piece of classical music.

Agreement

A promise between two or more people or organisations.

An agreement can be spoken, written, or a combination of both.

See also **Contract**.

Assigning copyright

Assigning copyright means selling your copyright.

Attribution

When the artist is shown as the creator or performer of a work.

Blog

Usually a personal website with regular descriptions or comments on various issues, graphics, videos etc. Blogging is what you do when you are writing your blog.

Conditions of entry

The rules a person agrees to when they enter into a prize, festival, or competition. Conditions of entry are an agreement between the owner of the copyright and the organiser.

Consent form / Release form

The document used when someone asks a person or performer to show their image, voice or likeness in public.

Contract

A legal agreement between people or organisations. A contract is not always in writing; it can also be made in a discussion. If someone promises something and does not do it, then the other people in the contract can ask a court for help.

Copyright

Copyright gives people legal rights to work they have created. Copyright helps stop people doing things without the consent of the copyright owner. The notice for copyright is ©.

Copyright clearance

A permission to use copyright material.

Copyright infringement

When someone does not ask or get your permission to do certain things with your work.

Defamation

When a person hurts the reputation of someone else by saying things about them.

Derogatory treatment

When your moral rights are infringed because:

- someone does not show your name or your work correctly, or
- treats your work in a way that hurts your reputation.

Infringement

Doing something which is against the law.

Letter of demand

A letter of demand is sent to the person or organisation who has infringed, or breached, someone else's copyright. A letter of demand tells that person or organisation of your rights and gives them a chance to fix the problem.

Licence

The permission to use material protected by copyright.

Licensee

The person who receives a licence. A licensee has been given permission to use a copyright owner's work.

Material form

Your 'real' original artwork, such as the painting or sculpture or your written music notes.

Moral rights

Moral rights are personal rights that connect the creator of a work to their work. Moral rights are about being properly named or credited when your work is used, and the way your work is treated and shown.

Moral rights infringement

When you have not been properly named or credited when your work is used or if someone has treated your work in a way that hurts your reputation.

Party

A person or organisation that agrees to do something in an agreement.

Physical work

Your 'real', original artwork.

Piracy

Illegal use of copyright material.

Right

When the law says that a person can do certain things.

Right of attribution

The right to be shown as:

- a creator of material protected by copyright, or
- the performer of a live or recorded performance.

Right of integrity

Your work cannot be treated in any way that hurts your reputation.

Royalties

A payment given to a copyright owner, or creator of a work, when they give permission for their work to be used in public.

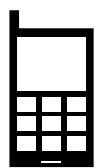
Social Networking

A website where people talk together, share ideas, activities and events.

**“If someone
infringes your
copyright, do
something
about it.”**







Legal help: who can you go to?

Arts Law Centre of Australia

www.artslaw.com.au

Tel. (02) 9356 2566 / 1800 221 457

Arts Law offers telephone legal advice, as well as information sheets and sample agreements. They can advise you on contracts and sometime help you get further legal advice if needed.

Arts Management Advisory Group (AMAG)

www.amag.org.au

Tel. (03) 1300 044 439

AMAG offers Victorian artists and small organisations a free law referral service and arts management advisory service.

Australian Copyright Council

www.copyright.org.au

Tel. (02) 8815 9777

The Australian Copyright Council offers a free legal advice service to composers, writers, artists, film makers, designers and photographers who have copyright issues.

Disability Discrimination Legal Service

www.communitylaw.org.au/ddls/

Tel: 03 9654 8644 / 1300 882 872 (free for country callers)

TTY: 03 9654 6817

The Disability Discrimination Legal Service works in disability discrimination legal matters. They provide free legal services, information, advice, casework assistance, community legal education, and policy and law reform.

Mental Health Legal Centre (MHLC)

www.communitylaw.org.au/mentalhealth

Tel. (03) 9629 4422 / 1800 555 887 (free for country callers)

MHLC provides a free and private legal service to anyone who has experienced mental illness in Victoria where their legal problem relates to their mental illness.

Victoria Legal Aid

www.legalaid.vic.gov.au

Tel. (03) 9269 0120 / 1800 677 402 (free call for country areas)

Victoria Legal Aid can provide free legal information and access to legal aid services.

Villamanta Disability Rights Legal Service

www.villamanta.org.au

Tel. (03) 5229 2925 / 1800 014 111

Villamanta is a legal centre that works only on disability related legal issues. Their aim is to make sure people in Victoria who have an intellectual disability know about the law, and can use the law to help look after their rights.

COLLECTING SOCIETIES

Australasian Performing Right

Association|Australasian Mechanical Copyright Owners Society (APRA|AMCOS)

www.apra-amcos.com.au

APRA-AMCOS is a copyright collecting agency for copyright owners of musical works.

Copyright Agency Limited (CAL)

www.copyright.com.au

Tel. (02) 9394 7600 / Toll free 1800 066 844

CAL is a copyright management organisation that represents authors, journalists, visual artists, surveyors, photographers, and newspaper, magazine and book publishers.

Viscopy

www.viscopy.com.au

Tel. (02) 9310 2018 / 1800 649 901 (freecall)

Viscopy is a copyright collecting agency for visual artists — illustrators, painters, cartoonists, photographers, sculptors and multimedia artists.

OTHER USEFUL PLACES FOR LEGAL INFORMATION

Ausdance

www.ausdance.org.au

Tel. (02) 6248 8992

Ausdance is the peak organisation for the Australian dance sector.

Intellectual Property Australia

www.ipaustralia.gov.au/ip

Tel. 1300 651 010 (freecall)

IP Australia is a Federal Government organisation that provides legal information and registration material for trademarks, patents, designs and intellectual property.

Media Entertainment Arts Alliance (MEAA)

www.alliance.org.au

Tel. 1300 656 512

MEAA is trade union that represents entertainment and information industry workers, such as actors and performers.

National Association of Visual Artists (NAVA)

www.visualarts.net.au

Tel. (02) 9368 1900

NAVA is the peak organisation for the Australian visual arts and craft sector.

This project was produced by



ARTS ACCESS VICTORIA

Funding Partner

Legal Services **BOARD**

Legal Partners



middletons | *straight talking*

Supporters



SWEET

Arts Access Victoria is supported by



Disclaimer

The content of this booklet is for your information only.

This booklet is general. It does not constitute, and should be not relied on as, legal advice. Arts Access Victoria (Arts Access) and the Arts Law Centre of Australia (Arts Law) recommends seeking advice from a qualified lawyer on the legal issues affecting you before acting on any legal matter.

While Arts Access and Arts Law try to ensure that the content of any document they produce is accurate, adequate or complete, they do not represent or warrant its accuracy, adequacy or completeness. Arts Access and Arts Law are not responsible for any loss suffered as a result of or in relation to the use of this booklet or any of its content. To the extent permitted by law, Arts Access and Arts Law exclude any liability, including any liability for negligence, for any loss, including indirect or consequential damages arising from or in relation to the use of this booklet or any of its content.

Information provided in this information sheet in relation to a State or Territory only applies to that State or Territory.

Arts Access Victoria was funded by the Legal Services Board of Victoria to produce this booklet as a component of the Raw Law project, with legal assistance from the Arts Law Centre of Australia.

**“Your art.
Your rights.”**



ARTS ACCESS VICTORIA

www.artsaccess.com.au