



## Canada's Copyright Landscape Has Changed

November 8, 2012

Key parts of [Canada's Copyright Modernization Act](#) came into force yesterday, including the following provisions:

- Breaking digital locks and other technological protection measures (e.g., passwords, activation keys, encryption) is now illegal; same for removing or changing digital information about copyright.
- Online services that enable infringement (e.g., file-sharing sites) may be liable for the infringement because they provided the service.
- Owners of sound recordings have the sole right to make them available, including on the Internet.
- Performers now have moral rights in their performances, including the right to the integrity of the performance and to be associated with it or to remain anonymous.
- Photographers now have the same authorship and ownership rights as other creators, and will be first owner of copyright in their photographs, unless specified otherwise by contract. The photographer's customers will be permitted to make private, non-commercial use of the photographs they commission, again unless the contract with the photographer specifies otherwise.
- Fair dealing "user rights" now extend to education, in addition to research, commentary, and private study, criticism, review, and news reporting.
- Fair dealing "user rights" also now extend to parody or satire (e.g., films like Scary Movie and Not Another Teen Movie).
- Using copyrighted works like songs in user-generated, non-commercial content may not be an infringement (e.g., posting a montage of your wedding to YouTube that includes a popular song playing in the background).
- Making copies for private purposes may not be an infringement (e.g., turning a VHS collection of yours into DVDs).
- Making copies for later listing or viewing may not be an infringement (e.g., recording a program on your PVR).
- Making copies for encryption research; backups; testing the security of a computer, system, or network; the interoperability of computer programs; or making temporary copies that are essential to a technological process may not be an infringement.
- Network service providers and hosts do not infringe copyright solely by providing the network or hosting services.
- Statutory damages for copyright infringement by individuals are now fixed between \$500 and \$20,000 for commercial purposes, and \$100 and \$5000 for non-commercial purposes. The statutory damages are for each work or other subject matter at issue in the case of infringement for commercial purposes, and for all works or other subject matter in the case of infringement for non-commercial purposes.
- There are also a number of provisions specific to education institutions, libraries, archives, and museums.

Note that there are conditions and limitations for many of these new provisions.

The notice and notice provisions for Internet Service Providers (ISPs) and search engines are not yet in force. They will come into force when regulations are issued. The provisions relating to national treatment for nationals of the World Intellectual Property Office (WIPO) treaty nations will come into force when Canada implements the WIPO Copyright Treaties.

Content shared on Bereskin & Parr's website is for information purposes only. It should not be taken as legal or professional advice. To obtain such advice, please contact a Bereskin & Parr LLP professional. We will be pleased to help you.