



Authorship

The Writers Guild of Canada proposes the following amendment to Bill C-11:

S. 2(2) is amended by adding the following:

“author” for the purposes of subsections 28.1, 28.2, 29.21, 30.04, and 41.22, in the case of a cinematographic work in which the arrangement or acting form or any combination of incidents represented give the work a dramatic character, means the writer and director of such cinematographic work.

The above amendment is necessary in order to provide cinematographic works with the same protections that other works with defined authorship are granted through these new and amended clauses of the Copyright Act. In particular, the new provisions prohibiting removal or altering of rights management information are of significant value to the authors of cinematographic works if they protect their rights to royalties collected in other jurisdictions based on their authorship. To do otherwise is to create an uneven playing field as this clause would give protections to authors of other works such as musical works, but not to the authors of cinematographic works. The above-referenced clauses (underlining representing proposed amendment to existing Copyright Act clauses) are:

s. 28.1 Any act or omission that is contrary to any of the moral rights of the **author** of a work or of the performer of a performer’s performance is, in the absence of the author’s or performer’s consent, an infringement of those rights.

s. 28.2 (1) The **author’s or performer’s right** to the integrity of a work or performer’s performance is infringed only if the work or the performance is, to the prejudice of its author’s or performer’s honour or reputation,

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s.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;

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s. 30.04 (1) Subject to subsections (2) to (5), it is not an infringement of copyright for an educational institution, or a person acting under the authority of one, to do any of the following acts for educational or training purposes in respect of a work or other subject-matter that is available through the Internet:

- (a) reproduce it;
- (b) communicate it to the public by telecommunication, if that public primarily consists of students of the educational institution or other persons acting under its authority;
- (c) perform it in public, if that public primarily consists of students of the educational institution or other persons acting under its authority; or
- (d) do any other act that is necessary for the purpose of the acts referred to in paragraphs (a) to (c).

(2) Subsection (1) does not apply unless the educational institution or person acting under its authority, in doing any of the acts described in that subsection in respect of the work or other subject-matter, mentions the following:

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

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41.22 (1) No person shall knowingly remove or alter any rights management information in electronic form without the consent of the owner of the copyright in the work, the performer's performance or the sound recording, if the person knows or should have known that the removal or alteration will facilitate or conceal any infringement of the owner's copyright or adversely affect the owner's right to remuneration under section 19.

...

(4) In this section "rights management information" means information that

(a) is attached to or embodied in a copy of a work, a performer's performance fixed in a sound recording or a sound recording, or appears in connection with its communication to the public by telecommunication; and

(b) identifies or permits the identification of the work or its **author**, the performance or its performer, the sound recording or its maker or the holder of any rights in the work, the performance or the sound recording, or concerns the terms or conditions of the work's, performance's or sound recording's use.