



Posthumous Works

The Copyright Act 1956 provided special provisions for certain copyright works which were unpublished at the time of the author's death ("posthumous works"). The only artistic works affected were engravings. Engravings not published at the time of the author's death enjoyed copyright protection until the end of the period of 50 years from the end of the calendar year in which they were first published. Copyright protection could therefore, in theory, be perpetual.

Under the Copyright, Designs and Patents Act 1988 all artistic works created after the Act commenced (1 August 1989) are treated in the same way, regardless of whether or not at the author's death such works had been published or otherwise publicly exploited. That is to say copyright subsists in all works for the lifetime of the artist plus 70 years after their death (extended from life plus 50 years to life plus 70 years by the Duration of Copyright and Rights in Performances Regulations 1995 ("the 1995 Regulations").

The 1988 Act therefore abolished the perpetual copyright which had previously applied to unpublished engravings, however in relation to existing works (works created before 1 August 1989) it provided some special rules:

- For engravings where the period of 50 years from first publication had already commenced as at 1 August 1989, then that period of copyright protection continued to be the same as it would have been under the 1956 Act, i.e. 50 years from the end of the calendar year in which it was published;
- Where the engravings remained unpublished as at 1 August 1989, a further fixed term of protection applied of 50 years from 1 January 1990 i.e. to 31 December 2039.

With the coming into force of the 1995 Regulations the duration of copyright protection of such works is now life of the author plus 70 years except if that period would expire before 31 December 2039 then the engravings will in any event enjoy copyright protection until 31 December 2039 in any event. For further information about engravings see Fact Sheet 13.

The content of this fact sheet is of benefit interest only and is not an exhaustive explanation of copyright protection and remedies for infringement. This fact sheet is not intended to apply to specific circumstances. The contents of this factsheet should not therefore be regarded as constituting legal or other advice and should not be relied upon as such. In relation to any particular problem that you may have, you are advised to seek specific and specialist advice.