

# VMK PROFESSIONALS PRIVATE LIMITED



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## FREQUENTLY ASKED QUESTIONS

### **Ques.1: What is Copyright?**

**Ans.** Copyright is part of Intellectual Property Right used to protect the works of original creator. The purpose of copyright is to prevent the unauthorised copying of work.

### **Ques.2: What is protected through Copyright?**

**Ans.** Copyright protection includes Literature, Drama, Music, Book, Art, Imagery, Graphic Design, Sculpture, Architecture, Choreography, Pantomime, Painting, Film, Computer Programme, Database, Advertisement, Map, Drawing, Motion Picture, and Sound Recording and alike.

### **Ques.3: Why should Copyright be protected?**

**Ans.** Copyright ensures certain minimum safeguards of the rights of authors over their creations, thereby protecting and rewarding creativity.

### **Ques.4: Where the term Copyright is defined?**

**Ans.** The term Copyright is defined under Section 14 of Copyright Act, 1957 read with Copyright Rules, 2013.

### **Ques.5: Whether scope and duration of protection provided under Copyright law is uniform?**

**Ans.** Scope and duration of protection provided under Copyright law varies with the nature of the protected work.

### **Ques.6 Does the law allow any use of a work without permission of the owner of the Copyright, and, if so, which are they?**

**Ans.** In order to protect the interests of users, some exemptions has been prescribed in respect of specific uses of works enjoying Copyright. Some of the exemptions are the uses of the work –

- + for the purpose of research or private study;
- + for criticism, appreciation or review;
- + for reporting current events;
- + in connection with judicial proceeding;
- + performance by an amateur club or society if the performance is given to anon-paying audience; and
- + the making of sound recordings of literary, dramatic or musical works under certain conditions.

### **Ques.7: Whether foreign work is protected?**

**Ans.** Copyrights of works of the Countries (WIPO) mentioned in the International Copyright Order is protected in India.

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## Ques.8: Whether Copyright protect idea(s)?

**Ans.** Copyright protects the expressions and not the ideas. Therefore, there is no Copyright on an idea.

## Ques.9: Does Copyright apply to titles and names?

**Ans.** Copyright doesn't ordinarily protect titles by themselves or names, short word combinations, slogans, short phrases, methods, plots or factual information.

## Ques.10: Is there any Copyright over news?

**Ans.** No. There is no copyright over news. However, there is Copyright over the way in which a news item is reported.

## Ques.11: What is the process of Copyright Registration?

**Ans.** Steps for filing Copyright registration application are:

1. Go on Copyright Registration URL – <https://copyright.gov.in/UserRegistration/frmLoginPage.aspx>
2. Click onto new user Registration, if you have not yet registered
3. After click on to link "Click for online Copyright Registration"
  - I. Complete the Form XIV;
  - II. Make the payment through Internet Payment gateway
4. After successful submission of the form, Diary Number will be generated (Please note it for future reference).
5. Note that -
  - I. Artistic Work to be uploaded in pdf/jpg format;
  - II. Sound Recording Work to be uploaded in mp3 format;
  - III. Literary/Dramatic, Music and Software work to be uploaded in pdf format, less than 10 MB.

## Ques.12: Forms involved in the Copyright law?

**Ans.**

FORMS	PARTICULARES
FORM-I	Notice of relinquishment of Copyright
FORM II	Application for compulsory licences for works withheld from public
FORM III	Application for compulsory licence for publication/communication to the public/translation
FORM IV	Notice for termination of licence

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FORM V	Application for a compulsory licence for disabled persons
FORM VI	Application for licence for translation
FORM VII	Licence for publication, translation and reproduction of work
FORM VIII	Application form for permission to carry on Copyright Business and for registration as a Copyright society
FORM IX	Application form for re-registration or renewal of registration of a Copyright society
FORM X	Certificate of registration
FORM XI	Application form for permission to carry on business and for registration as a performer's society
FORM XII	Application form for re-registration or renewal of registration as a performer's society
FORM XIII	Form of register of Copyrights
FORM XIV	Application for registration of Copyright
FORM XV	Application for registration of changes in the particulars of Copyright entered in the register of Copyrights
FORM XVI	Notice for infringing copies under section 53 of the Copyright Act, 1957.

### Ques.13: What is a work?

**Ans.** Work means any of the following, namely, a literary, dramatic, musical, artistic work, cinematograph film, or a sound recording etc.

### Ques.14: What is an artistic work?

**Ans.** Artistic work means-

- ✚ a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;
- ✚ a work of architecture; and
- ✚ any other work of artistic craftsmanship.

### Ques.15: What is meant by work of joint authorship?

**Ans.** "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(s).

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**Ques.16: What is a musical work?**

**Ans.** "Musical work" means a work consisting of music and includes any graphical notation of such work but doesn't include any words or any action intended to be sung, spoken or performed with the music. A musical work need not be written down to enjoy Copyright protection.

**Ques.17: What is a sound recording?**

**Ans.** "Sound recording" means a recording of sounds from which sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced. A phonogram and a CD-ROM are sound recordings.

**Ques.18: What is a cinematograph film?**

**Ans.** "Cinematograph film" means any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and includes a sound recording accompanying such visual recording and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films.

**Ques.19: What is a Government work?**

**Ans.** "Government work" means a work which is made or published by or under the direction or control of –

- + the government or any department of the government;
- + any legislature in India, and
- + any court, tribunal or other judicial authority in India.

**Ques.20: Who is the owner of Copyright in a Government work?**

**Ans.** In case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the Copyright therein.

**Ques.21: Who is the owner of Copyright in the work of a public undertaking?**

**Ans.** In case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

**Ques.22: What is an Indian work?**

**Ans.** "Indian work" means a literary, dramatic or musical work,

- + the author of which is a citizen of India; or
- + which is first published in India; or
- + the author of which, in the case of an unpublished work is, at the time of the making of the work is a citizen of India.



**Ques.23: Who is the first owner of Copyright in a work?**

**Ans.** Ordinarily the author is the first owner of Copyright in a work.

**Ques.24: Who is the author?**

**Ans.** Author -

- + In case of a literary or dramatic work, person who creates the work;
- + In case of a musical work, the composer;
- + In case of a cinematograph film, the producer;
- + In case of a sound recording, the producer;
- + In case of a photograph, the photographer;
- + In case of a computer generated work, the person who causes the work to be created.

**Ques.25: Is it necessary to obtain any licence or permission to use a musical sound recording for public performance?**

**Ans.** It is necessary to obtain the licences from each and every owner in the sound recording. This would, inter alia, include the producer of the sound recording, the lyricist who wrote the lyrics, and the musician who composed the music.

**Ques.26: Who is the owner of Copyright in works by journalists during the course of their employment?**

**Ans.** In case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the Copyright in the work in so far as the Copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the Copyright in the work.

**Ques.27: Who is the owner of a work produced during the course of the author's employment?**

**Ans.** In case if work is made in the course of the author's employment under a contract of service or apprenticeship, the employer shall, in the absence of any agreement to the contrary, be the first owner of the Copyright therein.

**Ques.28: Who is the owner of the Copyright in the case of a work produced for valuable consideration at the instance of another person?**

**Ans.** In the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the Copyright therein.

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## Ques.29: Is Copyright assignable?

**Ans.** Yes. The owner of the Copyright in an existing work or the prospective owner of the Copyright in a future work may assign to any person the Copyright either wholly or partially and either generally or subject to the limitations and either for the whole term of the Copyright or any part thereof.

## Ques.30: What is the mode of assigning Copyright?

**Ans.** It shall be in writing signed by the assignor or by his duly authorised agent. It shall identify the specific works and specify the rights assigned and the duration and territorial extent of such assignment. It shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the assignment and the assignment shall be subject to revision, extension or termination on terms as mutually agreed by the parties.

## Ques.31: Does an assignment Copyright lapse automatically?

**Ans.** Where the assignee doesn't exercise the rights assigned to him within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

## Ques.32: What will be the period of assignment if not specifically stated in the assignments?

**Ans.** If the period of assignment is not stated, it shall be deemed to be five years from the date of assignment.

## Ques.33: What will be the territorial extent of the assignment if not specified in the assignment?

**Ans.** If the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within the whole of India.

## Ques.34: Can an author relinquish Copyright and, if so, how?

**Ans.** The author of a work may relinquish all or any of the rights comprising the Copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights.

## Ques.35: What are the rights in the case of a literary work?

**Ans.** Rights in case of a literary work are -

- ✚ To reproduce the work;
- ✚ To issue copies of the work to the public;
- ✚ To perform the work in public;
- ✚ To communicate the work to the public;
- ✚ To make cinematograph film or sound recording in respect of the work;
- ✚ To make any translation of the work;
- ✚ To make any adaptation of the work.

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## **Ques.36: What are the rights in a dramatic work?**

**Ans.** In case of a dramatic work, rights are -

- ✚ To reproduce the work;
- ✚ To communicate the work to the public or perform the work in public;
- ✚ To issue copies of the work to the public;
- ✚ To include the work in any cinematograph film;
- ✚ To make any adaptation of the work;
- ✚ To make translation of the work.

## **Ques.37: What are the rights in a artistic work?**

**Ans.** In case of an artistic work, rights are -

- ✚ To reproduce the work;
- ✚ To communicate the work to the public;
- ✚ To issue copies of the work to the public;
- ✚ To include the work in any cinematograph film;
- ✚ To make any adaptation of the work.

## **Ques.38: What are the rights in a musical work?**

**Ans.** In case of a musical work, rights are -

- ✚ To reproduce the work;
- ✚ To issue copies of the work to the public;
- ✚ To perform the work in public;
- ✚ To communicate the work to the public;
- ✚ To make cinematograph film or sound recording in respect of the work;
- ✚ To make any translation of the work;
- ✚ To make any adaptation of the work.

## **Ques.39: What are the rights in a cinematograph film?**

**Ans.** In the case of a cinematograph film, rights are

- ✚ To make a copy of the film including a photograph of any image forming part thereof;
- ✚ To sell or give on hire or offer for sale or hire a copy of the film;
- ✚ To communicate the cinematograph film to the public.

## **Ques.40: What are the rights in a sound recording?**

**Ans.** In case of a sound recording, rights are -

- ✚ To make any other sound recording embodying it;
- ✚ To sell or give on hire, or offer for sale or hire, any copy of the sound recording;
- ✚ To communicate the sound recording to the public.

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**Ques.41: Is translation of an original work also protected under Copyright?**

**Ans.** Translation of an original work is also protected under the Copyright law.

**Ques.42: Whether Computer programmes is protected under Copyright Act?**

**Ans.** Yes. Computer programmes are protected under the Copyright Act, 1957. They are treated as literary works.

**Ques.43: Can any person translate a work without the permission of the owner of the Copyright in the work?**

**Ans.** No. A person can't translate a work enjoying copyright without the permission of the copyright owner.

**Ques.44: What is the term of protection of Copyright?**

**Ans.** The general rule is that Copyright lasts for 60 years.

- + In case of original literary, dramatic, musical and artistic works the 60-year period is counted from the year following the death of the author;
- + In case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organisations, the 60-year period is counted from the beginning of the calendar year following the date of publication.

**Ques.45: Regulatory body for Copyright matters?**

**Ans.** Copyright Enforcement Advisory Council (CEAC) is the regulatory body for Copyright matters.

**Ques.46: Which acts common termed as Copyright infringements?**

**Ans.** The following are some of the commonly known acts involving infringement of Copyright -

- + Making copies for sale, hire or letting them for hire;
- + Performance of Copyright works in public without prior permission of the owner;
- + Infringement of copyright;
- + Distributing copies for the purpose of trade or to such an extent so as to affect;
- + Any act that prejudicially affect the interest of the owner of the Copyright;
- + Public exhibition of copies by way of trade; and
- + Importation of infringing copies into India.

**Ques.47: What are the civil remedies for infringing Copyright?**

**Ans.** A Copyright owner can take legal action against any person who infringes the Copyright in the work. The Copyright owner is entitled to remedies by way of injunctions, damages and accounts.

**Ques.48: Which court have jurisdiction over civil remedies in Copyright cases?**

**Ans.** The District Court concerned has the jurisdiction in civil suits regarding Copyright infringement.

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**Ques.49: Whether infringement of a Copyright is a criminal offence?**

**Ans.** Yes. Any person who knowingly infringes or abets the infringement of the Copyright in any work commits criminal offence under Section 63 of the Copyright Act.

**Ques.50: What is the criminal offence punishments under the Copyright law?**

**Ans.** The minimum punishment for infringement of Copyright is imprisonment for six months but which may extend to three years and with the minimum fine of ₹ 50,000/- but which may extend to ₹2,00,000/-.

