

UK Copyright Law

(This interpretation of the law was enforced by Oxfam's lawyer when I worked as an editor at Oxfam Publishing, and was confirmed by the Copyright Adviser at the University of Wolverhampton. – Catherine Robinson)

Under British law, copyright in published and unpublished material lapses 70 years after the death of the author. **As a general guide, copyright law applies to all photographs, tables and figures, and to any passage of text which exceeds 400 words (or a series of quotations totalling 800 words, none of which exceeds 300 words).** Warning: it can take months to obtain permission to reprint copyright material, even from UK publishers, so start early!

The law allows limited reproduction of copyright material if it can be construed as fair dealing: e.g. text may be quoted in a review or as part of the construction of an intellectual argument. There is no legal upper limit for 'fair use', but the generally accepted rule of thumb is 400 words, provided that they don't constitute more than 25 per cent of the whole text.

No self-contained text, whether poetry or prose, even if it is less than 400 words, may be used in its entirety in an anthology without permission of the copyright holder.

See this website for Ten Common Misconceptions about Copyright Law:

www.copyrightservice.co.uk/copyright/copyright_myths. Note particularly misconceptions (7) and (8).

US Copyright Law

This is complicated! Anything published after 1 January 1978 is covered in basically the same way as under British law – i.e. 70 years from date of author's death. For anything published before 1978, much depends on whether the copyright was renewed by the author. There is a potential 95 years from the date of *original publication*. This means in effect that **anything published prior to 1910 is definitely clear of author's copyright**; but anything first published between 1910 and 1978 needs to be checked out. Wikipedia explains as follows:

Works created in or after 1978 are extended copyright protection for a term defined in 17 U.S.C. § 302. With the passage of the [Sonny Bono Copyright Term Extension Act](#), these works **are granted copyright protection for a term ending seventy years after the death of the author**. If the work was a work for hire (e.g., those created by a corporation) then copyright persists for 120 years after creation or 95 years after publication, whichever is shortest.

Copyrightable works created before 1978 that had not entered the public domain in 1978 received protection for the § 302 term above, with the exception that those copyrights would not expire before 2003. Prior to 1978, works had to be published or registered to receive copyright protection. Upon the effective date of the 1976 Act ([January 1](#), 1978) this requirement was removed and these works received protection despite having not been published or registered. However, Congress intended to provide an incentive for these authors to publish their unpublished works. To provide that incentive these works, if published before 2003 will not have their protection expire until 2048. **All works published in the United States before 1923 are in the public domain**; however, works created before 1978 but not published until recently may be protected until 2047: [Sec. 303](#).

For works that received their copyright prior to 1978, a renewal had to be filed in the work's 28th year with the [Library of Congress](#) Copyright Office for its term of protection to be extended. The need for renewal was eliminated in [1992](#), but works that had already entered the public domain by non-renewal did not regain copyright protection. Therefore, **works published before 1964 that were**

not renewed are in the public domain. No additional material is currently set to enter the public domain until at least 2019 due to changes in the applicable laws.

It is not true that the lack of a copyright notice means that the work is in the public domain. United States law in effect since 1 March 1989 has made copyright the default for newly created works. For a recent work to be in the public domain, the author must specifically opt out of copyright. **For works produced between 1 January 1923 and 1 March 1989, copyright notice is required**; however, registration was not required, and between 1 January 1978 and 1 March 1989 lack of notice is not necessarily determinative, if attempts were made immediately to correct the lack of notice. Any American works that did not have formal registration or notice fell into the Public Domain if registration was not made in a timely fashion.

APPENDIX

US copyright law is horrendously complex, but here is the essence: all works published in the United States before 1923 are in the public domain. Otherwise, copyright protection generally lasts for 70 years after the death of the author. Unlike UK copyright law, there is no formula to ensure that a predetermined percentage or amount of a work—or specific number of words, lines, pages, copies—may be used without permission. For this reason I have avoided quoting from contemporary US sources, apart from UUA sources, and in those cases I intend to seek permission but have not yet had time to do so.

If I have inadvertently broken US law, I am relying on the fact that US courts "consider whether the use is hurting the current market for the original work (for example, by displacing sales of the original) and/or whether the use could cause substantial harm if it were to become widespread" (to quote an authoritative article on Wikipedia (https://en.wikipedia.org/wiki/Copyright_law_of_the_United_States)). I would argue that inclusion of a 150-word quotation, if properly referenced, is more likely to enhance sales of the original than to damage them.