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# Copyright HOWTO

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## Project Gutenberg's Copyright Rules

We have seven active rules (others are under development) under which an item may be copyright-cleared for inclusion in the Project Gutenberg collection. If you are uncertain about whether a rule applies, or whether more than one rule applies, please [submit the item](#) for our consideration. This is safer and easier than addressing hypothetical questions about potential items.

- [Rule 1. Pre-1923](#)
- [Rule 2. Post-1978 life+70](#)

- [Rule 3. Post-1978 publication+120](#)
- [Rule 4. Manuscripts created pre-1978 but published post-1978](#)
- [Rule 5. Pre-1989 without a copyright notice](#)
- [Rule 6. Pre-1964 but not renewed](#)
- [Rule 8. Government copyright](#) (rules 7 and 9 are not currently in use)

## Rule 1

Works first published before January 1, 1923 with proper copyright notice entered the public domain no later than 75 years from the date copyright was first secured. Hence, all works whose copyrights were secured before 1923 are now in the public domain, regardless of where they were published. (This is the rule Project Gutenberg uses most often)

Works published and copyrighted 1923-1977 retain copyright for 95 years. No such works will enter the public domain until 2019 unless one of the other rules applies.

## Rule 2

Works first created on or after January 1, 1978 enter the public domain 70 years after the death of the author if the author is a natural person. (Nothing will enter the public domain under this rule until at least January 1, 2049.)

## Rule 3

Works first created on or after January 1, 1978 which are created by a corporate author enter the public domain 95 years after publication or 120 years after creation whichever occurs first. (Nothing will enter the public domain under this rule until at least January 1, 2074.)

## Rule 4

Works created before January 1, 1978 but not published before that date are copyrighted under rules similar to rules 2 and 3 above, except that in no case will the copyright on a work not published prior to January 1, 1978 expire before December 31, 2002. If the work *is* published before December 31, 2002, its copyright will not expire before December 31, 2047. (This rule copyrights a lot of manuscripts that we would otherwise think of as public domain because of their age.)

## Rule 5

If a substantial number of copies were printed and distributed in the U.S. prior to March 1, 1989 without a copyright notice, and the work is of entirely American authorship, or was first published in the United

States, the work is in the public domain in the U.S. (Note that we cannot clear items printed/published outside of the U.S. under this rule)

## Rule 6

(This rule is complicated, and is seldom applied). Works published before 1964 needed to have their copyrights renewed in their 28th year, or they'd enter into the public domain. Some books originally published outside of the US by non-Americans are exempt from this requirement, under GATT. Works from before 1964 were automatically renewed if ALL of these apply:

- At least one author was a citizen or resident of a foreign country (outside the US) that's a party to the applicable copyright agreements. (Almost all countries are parties to these agreements.)
- The work was still under copyright in at least one author's "home country" at the time the GATT copyright agreement went into effect for that country (January 1, 1996 for most countries).
- The work was first published abroad, and not published in the United States until at least 30 days after its first publication abroad.

If you can prove that one of the above does not apply, AND if you can prove that copyright was not renewed, then the work is in the public domain. For US authors and publications, non-renewal is the hard part to demonstrate.

To prove an item was not renewed, you need to do an extensive search of renewals in Library of Congress records (or you could get a letter from the author or publisher attesting that there was no renewal). The Library of Congress provides a for-fee copyright renewal search service, visit <http://www.copyright.gov>

Please read the document about copyright renewal online at: <http://onlinebooks.library.upenn.edu/renewals.html> before attempting to prove public domain status of a work published between 1923-1963. We have a separate "[Rule 6 HOW-TO](#)" for working under Rule 6.

## Rule 8

U.S. Government and Crown copyright. Items published by the United States Government do not have copyright protection in the US. We need to be careful with this rule, because some items distributed by the U.S. Government might have been authored by other entities who are entitled to a copyright. In the U.K., Crown copyright lasts for 50 years for items published by the U.K. government, which might let Rule 7 be applied to such items 50+ years old.

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THOSE ARE ALL THE RULES WE USE. PLEASE CONTACT US BEFORE DECIDING THAT A

RULE APPLIES TO A WORK YOU ARE INTERESTED IN, AS WE NEED TO HAVE THE FINAL DECISION. DUE TO THE RISKS OF COPYRIGHT VIOLATION, WE MUST PERFORM "DUE DILIGENCE" TO MAKE SURE THAT WE HAVE RIGHTS TO USE THE ITEMS WE DISTRIBUTE.

NOTE THAT PROJECT GUTENBERG COPYRIGHT RESEARCH IS ONLY FOR PROJECT GUTENBERG, AND ONLY FOR PURPOSES OF ESTABLISHING COPYRIGHT UNDER UNITED STATES LAWS. WE CANNOT PERFORM RESEARCH FOR OTHER ORGANIZATIONS, AND OTHER ORGANIZATIONS WOULD BE WISE TO SEEK THEIR OWN LEGAL GUIDANCE FOR COPYRIGHT ISSUES.

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Here is a little more background and detail on U.S. copyright law as it pertains to Project Gutenberg:

Caveat: Each edition of a work may have its own period of copyright protection (this depends on whether the new edition involves "authorship" or simply corrects punctuation). Every translation has independent copyright protection. A new edition does not extend the protection of the original edition.

## **Public Domain and Copyright Rules for the United Kingdom and many other countries**

The general rule is life of the author plus 70 years (previously life plus 50 years, but globalization of copyright laws and pressure from content owners has changed this in most countries). No other major country has required copyright notice, and placed works without notice in the public domain. Rules on corporate authors differ.

## **Whose law applies?**

When we distribute in the United States, U.S. law applies. When we distribute to other countries, their law applies. That is why Peter Pan is marked for US distribution only. It is public domain in the U.S. but not in the U.K.

## **What changes have taken place in the term of copyright protection in the United States?**

Under the 1909 Copyright Act, the original term lasted 28 years (not 26). It was renewable for an extra 28 years, for a total of 56 years. Until 1992, the work would enter the public domain if renewal was not filed in a timely manner. However, even with diligent research, it is very difficult to determine with assurance that renewal was not filed.

In the mid 1950's Congress started working on a major revision of the copyright act, but by 1960 it was

clear that this would not be a short process. By 1962, everything published before 1906 was in the public domain. It was clear that the new act would grant existing works a total term of 75 years. To prevent these works from losing out on the 75 year extension while Congress worked out all the other details of the new act, Congress started passing extension acts in 1962. Such extensions prevented copyright expirations before the passage of the 1976 Copyright Act, with the result that all copyrights in existence in 1962 were extended to at least 1976 when the 75-year term kicked in.

Effective in 1998, after works first published in 1922 had passed into the public domain, the copyright term was extended for all works as to which copyright protection had not yet expired. For works published in 1923, and thereafter (provided they were renewed, or were exempt from renewal requirements). Thus, the effective term will be 95 years.

The rules on public speeches, musical performances, and other works not originally fixed in a tangible medium of expression are confusing, and require a determination based on the facts of the individual instance.

Rule of Thumb: Published before 1923 or published at least 95 years ago in the U.S. OR published 50 years after the author's death in some countries, 70 years after death in others.

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