



Copyright for Schools

The Department of Education (the Department) complies with all requirements relating to copyright, as detailed in:

- the *Copyright Act 1968*; and
- the statutory and voluntary copyright licensing agreements to which the Department is a signatory.

BACKGROUND

Copyright is a form of intangible personal property given to the owner of copyright materials to control how and when these materials are used. The limitations for the reproduction and communication of material and conducting of performances are defined in the *Copyright Act 1968* and associated licence agreements. Different exclusive rights apply to these materials depending on whether they are 'works' or 'subject matter other than works' (see Appendix A: Different categories of works).

To provide fair returns to owners of copyright materials used in schools, a number of statutory and voluntary licences have been developed.

- A statutory licence is a licence provided by legislation. It enables a school to copy limited amounts of material for the purposes of a course of education provided by it. Copyright Agency Limited and Screenrights administer these statutory licences for schools.
- A voluntary licence is not provided by legislation, but is purchased by the Department to enable the copying of print and audio/visual music and the performance of copyright musical works in schools, as well as showing films in school for entertainment purposes (not fundraising). These are purchased from The Australasian Mechanical Copyright Owners' Society, The Australasian Performing Right Association, The Australian Record Industry Association and Roadshow.

The Department, and other state and territory authorities and non-government school associations, are signatories to these licences which set out conditions for reproduction and communication of 'works' and 'subject matter other than works' in schools and the fees payable for the use of these works. Fees are paid centrally by the Department.

Digital reproduction and communication is permitted under the Copyright Amendment (Digital Agenda) Act 2000 if it is carried out solely for the educational purposes of the institution and within the prescribed limits. The word 'communicate' in the copyright context refers to making work available in electronic form (e.g. available online, including caching, saved to an electronic whiteboard or by electronic transmission such as e-mail).

The extent of royalties to be paid to authors is determined by the level of copying of their works. This is estimated annually by surveying the usage of copyright materials in a selected sample of schools. If selected, it is compulsory for a school to take part in these surveys. The Department assists schools selected in the sampling process by conducting workshops involving the copyright agencies, the survey company and the schools. The annual licence fees are distributed by the relevant copyright agency, in the form of royalties, to the owners of copyright as compensation.

RESTRICTIONS ON COPYING

School staff

Staff should refer to the Department's webpage providing copyright advice, support and information <http://www.det.wa.edu.au/copyright/detcms/portal/> and the *National Copyright Guidelines* on the Smart Copying website at <http://www.smartcopying.edu.au/>. Note that the education licences allow for the material to be copied but not altered; permission to alter content must be obtained from the copyright owner. Any electronic copies must be stored on a password protected intranet or content management system; they cannot be accessible from a school's website.

Central and district office staff

Central and district office staff may only rely on the educational licences where there is a direct involvement in educating students in schools and where the material is only photocopied i.e. not stored digitally. See <http://www.det.wa.edu.au/copyright/detcms/navigation/working-in-central-or-regional-education-offices/?oid=MultiPartArticle-id-13312921>

If third party material is to be included in a Departmental publication or placed on the Department's website, Intranet or in another electronic format then the statutory licences cannot be relied on and any third party copyright should be cleared for use.

COPYRIGHT NOTICES AND LABELLING

Notices around equipment used for copying

The *Copyright Act 1968* requires the placement of notices on or near (within reading distance) equipment used for hard and digital copying or communicating and the resulting copies. See

<http://www.det.wa.edu.au/copyright/detcms/navigation/copyright-notices/>

Principals have a responsibility to verify that staff and students comply with the legislative requirements. Infringement of copyright by converting copyright material into electronic form is subject to harsher penalties than infringement by reproducing copyright material in non-digital form. The maximum penalties applicable to companies and individuals for these types of infringement are \$93,500 and \$60,500 respectively.

Visible and legible copyright notices (see Appendix B) are to be clearly placed in classrooms, libraries and other places in the school that are in close proximity to all:

- computers;
- scanners;
- photocopying machines;
- VCR players;
- DVD players and burners;
- CD Burners, and
- other equipment used for communicating or copying either by analogue or digital means.

Depending on the size and layout of the classroom, and the number of computers, a number of notices may be needed so that they are easily read by all people using the equipment.

Whilst it is recognised that younger students will not be able to read or understand the notice, for their own protection schools should not invent a 'user-friendly' notice, as requirements are very specific under the *Copyright Act 1968*.

Notices required for content stored electronically

Notices are required where third party content e.g. broadcasts, scanned pages from books, magazines, material downloaded from the Internet, is stored electronically on USB, a school's intranet site, electronic whiteboard, content management system or any other device used to store electronic data. There are separate notices for broadcasts and text and artistic works stored electronically (Appendix B). Either these notices must be shown at time of access to the material or a link provided to the notices. If notices are not provided it may be asserted that the communication infringes the *Copyright Act 1968*.

The ability of educational institutions to easily obtain and reproduce materials in content repositories creates significant risk of copyright infringement on a large scale. It also could result in a significant rise in copyright costs when reliance is placed on the statutory licences to copy material electronically as this is subject to remuneration under the *Copyright Act 1968*. Wherever possible, schools should [link](#) to websites rather than downloading and copying website material onto content management systems. This has several advantages, including reducing copyright costs and removing the need for copyright notices.

Labelling School Material

It is important to label correctly all print course material published by and for schools. The purpose of labelling is to assist with the distribution of copyright royalties under the statutory licence scheme, and to ensure that schools do not pay to copy material that they own or have permission to use. In 2011, Australian schools paid just under \$56 million in copyright fees to the Copyright Agency Limited (CAL) to distribute to copyright owners. It is possible that a significant proportion of these fees were paid to copy material owned by schools and educational bodies. An appropriate labelling system also permits others to know whether the material can be reproduced with or without permission or payment.

Labelling Print Course Material Owned by the School or Educational Body

Materials produced by a school or the Department should be labelled in the footer with the copyright symbol, the name of the school and year of publication, e.g.

© XYZ Senior College 2015

© Department of Education WA 2015

Labelling Print Course Material Owned by Someone Else

If a school publishes material owned by someone else, such as commercial publishers, government bodies or students, the source of the material should be clearly indicated in the footer of each page.

When works, such as pictures, photographs or charts owned by someone else are incorporated into a resource, the copyright information must be included next to the actual work.

Labelling material where permission has been given from the copyright owner to reproduce the material.

Where a school seeks permission from a copyright owner to reproduce their material staff should also check as to how they would like to be attributed. The permission sought should allow the school or educational body to reproduce the material, and for the material to be subsequently copied/repurposed, and, if appropriate,

communicated (transmitted electronically) by the school or educational body for its educational purposes.

It should be clearly indicated next to the work or in the footer of each page that permission has been granted to reproduce the material, e.g. *Reproduced with permission from Crown Publishing.*

Labelling material that is available for free

Material that can be used for free, such as content from Education Services Australia (ESA) or material made available under a Creative Commons licence should be labelled according to the terms of the licence under which it has been made available (see below). This is to ensure that schools and educational bodies not pay copyright royalties to CAL to copy works that the copyright owner has already given permission to use. Material copied from a website should credit the website URL and date of retrieval e.g.

<http://www.mercury.org.au/PDFs/Reclaiming%20Commons%20-%20John%20Hepburn.pdf>

retrieved 01/12/2011



<http://creativecommons.org/licenses/by/2.5/au/>

COPYRIGHT SAMPLING SURVEY

It is a legislative requirement of the *Copyright Act 1968* that all staff in schools/regional education offices/Central Office participate in the copyright sampling survey process for the copyright agencies, if selected.

Schools will usually be informed during November of the previous year if they have been selected for a survey; selection is at random. If selected, the principal should choose a member of the school staff to serve as the Copyright Survey Coordinator. This role oversees the copyright sampling process within the school for the duration of the survey, and ensures that all instructions and requirements of the copyright sampling process are followed.

Workshops, which are designed as 'Train the Trainer' sessions, are provided for a member of the senior administrative team and the Copyright Survey Coordinator prior to the survey. It is the school's responsibility that all staff are subsequently trained so that they can adequately complete the survey. Photocopy surveys last for the duration of one term, and the electronic use surveys last for four weeks.

During the survey, all teachers will be required to provide the publication details of any third party incorporated into their work. The correct attribution of copyright owners on materials previously produced will readily assist the teacher to identify the creator and publication during the survey.

SMARTCOPYING

Under the *Copyright Act 1968*, schools can copy and communicate limited amounts of copyright material for educational purposes for an agreed fee (paid for centrally by the Department). In recent years, copyright costs in the education sector have been increasing exponentially.

Smartcopying initiatives are practical strategies aimed at promoting cost effective copyright practices in the classroom. Smartcopying is not about restricting schools from using copyright material, rather assisting them to better manage and control the costs of copying.

Schools are asked to:

- Link to material rather than copy and paste or save material to content repositories, intranets etc. Linking is not a remunerable activity.
- Remove all unwanted material from electronic whiteboards, content repositories, intranets etc at least annually and preferably at the end of each semester.
- Search for and use Creative Commons material or open education resources wherever possible.
- Label material accurately

ADDITIONAL RESOURCES

Staff should familiarise themselves with the information sheets contained on the Smartcopying Website <http://www.smartcopying.edu.au/> and on the Department's Copyright website <http://www.det.wa.edu.au/copyright/detcms/portal/>

CONTACT INFORMATION

Principal Consultant, Intellectual Property and Copyright

T: 08 9264 4058

E: copyright@education.wa.edu.au

APPENDIX A

COPYRIGHT AGENCIES

Copyright Agencies have been established to manage the licensing of creators' works on a collective rather than individual basis. These agencies can assist schools in locating particular copyright materials. The agencies currently operating in Australia include:

- The Australasian Mechanical Copyright Owners' Society (AMCOS)

Administers the right to make a recording (a 'mechanical copy') of musical works on behalf of composers and music publishers, or to photocopy (digital copying is not allowed) notated music within certain guidelines.

- The Australasian Performing Right Association (APRA)

Administers the rights to broadcast, transmit and perform in public on behalf of composers and music publishers.

- The Australian Record Industry Association (ARIA)

Administers the right to reproduce the sound recordings of a particular performance on behalf of the record companies.

- Screenrights (the Audio-Visual Copyright Society Ltd)

Administers the right to record and make off-air copies of broadcasts on behalf of producers of films and television programs.

- Copyright Agency Limited (CAL)

Administers the right to make copies of published literary and certain other works on behalf of authors and publishers.

- The Phonographic Performance Company of Australia (PPCA)

Administers the rights to broadcast, transmit and perform in public on behalf of record companies.

- Viscopy

Administers the right to make copies on behalf of visual and graphic artists

WORKS

The different categories of 'works' are:

'Literary works'

Include books, reports, essays, song lyrics, instruction manuals, journal and magazine articles, poems, catalogues, tables, compilations, and computer programs.

'Artistic works'

Include drawings, paintings, sculptures, cartoons, maps, photographs, plans, charts, engravings (whether or not the work is of artistic quality) and a work of artistic craftsmanship, such as handicrafts, wood carvings and jewellery.

'Musical works'

Include musical scores, and compositions. Song lyrics are protected as literary works.

'Dramatic works'

Include choreographies, scripts or scenarios for films, plays, shows, pantomimes, and any other works intended to be performed.

SUBJECT MATTER OTHER THAN WORKS

The different categories of subject matter other than works' are:

'Cinematograph films'

Include films, videos, documentaries, advertisements, television programs and some computer games and multimedia products comprising moving pictures.

'Sound recordings'

Include audio recordings stored on vinyl records, compact discs, audiotapes and similar media.

'Broadcasts'

Include radio or television broadcasts, including satellite and cable pay television broadcasts and podcasts.

'Published editions'

Refers to the typographical arrangement of an edition and is separate from the copyright in any literary or artistic works contained in the edition. For example, there will be copyright in the arrangement of a published anthology of works or extracts.

A single item may contain both 'works' and 'subject matter other than works'. For example, a multimedia product could contain text, software, photographs, drawings and other graphic images (artistic works), music (musical works), scripts (dramatic works), recorded music clips (sound recordings), animation, film and video clips (cinematograph films), performances, as well as the overall compilation (protected as a literary works).

APPENDIX B

B.1 NOTICE FOR EQUIPMENT THAT PERMITS THE ELECTRONIC OR DIGITAL COPYING OF WORKS

(TO BE PLACED NEAR PHOTOCOPIERS, SCANNERS, COMPUTERS, CD BURNERS AND OTHER EQUIPMENT THAT PERMITS THE ELECTRONIC OR DIGITAL COPYING OF WORKS)

**PRESCRIBED FORM OF NOTICE FOR SECTIONS 39A
AND 104B OF THE COPYRIGHT ACT 1968,
IN RELATION TO THE REPRODUCTION OF WORKS
AND THE COPYING OF PUBLISHED EDITIONS**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- A reproduction that is a fair dealing under the *Copyright Act 1968 (the Act)*, including a fair dealing for the purposes of research or study; or
- A reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

B.2 NOTICE FOR LIBRARY COMMUNICATION FOR RESEARCH AND STUDY

(LIBRARY COMMUNICATION RESEARCH & STUDY)

FORM OF NOTICE FOR PARAGRAPH 49 (7A) (c) OF
THE COPYRIGHT ACT 1968

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been provided to you pursuant to section 49 of the *Copyright Act 1968* (***the Act***) for the purposes of research or study. The contents of the material may be subject to copyright protection under the Act.

Further dealings by you with this material may be a copyright infringement. To determine whether such a communication would be an infringement, it is necessary to have regard to the criteria set out in Part 3, Division 3 of the Act.

B.3 NOTICE FOR AUDIO VISUAL DIGITAL AND ELECTRONIC RECORDING EQUIPMENT

(TO BE PLACED NEAR VCRs, DVDs and OTHER AUDIO VISUAL DIGITAL AND ELECTRONIC RECORDING EQUIPMENT)

**PRESCRIBED FORM OF NOTICE FOR SECTION 104B
OF THE COPYRIGHT ACT 1968 IN RELATION TO THE
COPYING OF AUDIO-VISUAL ITEMS**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. Unless otherwise permitted by the *Copyright Act 1968 (the Act)*, unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item.

It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act.

Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

B.4 NOTICE FOR A BROADCAST COMMUNICATED BY RETICULATION OR INTRANET

**(TO BE ATTACHED TO COPIES OF A BROADCAST COMMUNICATED BY
RETICULATION OR INTRANET)**

**FORM OF NOTICE FOR PARAGRAPH 135KA (a) OF
THE COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been copied and communicated to you by or on behalf of [*insert name of school/district office/Central Office*] pursuant to Part VA of the *Copyright Act 1968* (***the Act***).

The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

**B.5 NOTICE FOR ELECTRONIC AND COMMUNICATED COPIES OF
COPYRIGHT MATERIAL**

**(TO BE ATTACHED TO ALL ELECTRONIC AND COMMUNICATED COPIES OF
COPYRIGHT MATERIAL SENT TO AN INDIVIDUAL OR CLASSROOM (E.G. BY
EMAIL OR INTRANET)**

**FORM OF NOTICE FOR PARAGRAPH 135ZX(A) OF
THE COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of
[insert name of school, district office, Central Office] pursuant to Part VB of the
Copyright Act 1968 (**the Act**).

The material in this communication may be subject to copyright under the Act. Any
further reproduction or communication of this material by you may be the subject of
copyright protection under the Act.

Do not remove this notice.

B.6 NOTICE FOR ALL PHYSICAL ANALOGUE OR ELECTRONIC COPIES OF BROADCASTS

(TO BE ATTACHED TO ALL ANALOGUE COPIES (e.g. VIDEO CASSETTES) OR ELECTRONIC COPIES (e.g. DVDs) OF BROADCASTS)

Made for [institution]

Under Part VA, Copyright Act 1968

Date program broadcast - --/--/0-

Date this copy made- --/--/--

Do not remove this notice.

B.7 NOTICE FOR ALL SOUND RECORDINGS

(TO BE ATTACHED TO ALL SOUND RECORDINGS)

This recording has been made under a licence from AMCOS and ARIA for educational purposes only for Xxx School.

Include:

- the title of each of the sound recording;
- the name of the composer and arranger;
- the artist or group name; and
- the record company label;

Note that the recording should not include advertising or promotional material, or any other matter intended to encourage the purchase, use or support of particular goods or services.

B.8 NOTICE FOR ALL COPIES OF NOTATED MUSIC

(TO BE ATTACHED TO ALL COPIES OF NOTATED MUSIC)

Each original musical work, from which a copy is made under the AMCOS licence, must be marked with the following:

- the words “AMCOS LICENCE – [NUMBER] COPIES MADE”;
- the name of the participating school; and
- the date the copies were made

Each copy of a musical work made under the AMCOS Agreement must be marked with the following:

- the words “AMCOS licensed copy”;
- the name of the participating school;
- the copy number e.g. *1 of 5, 2 of 5*; and
- the date copied