Legal Compliance
Education and Awareness

Copyright Act 1968
(Commonwealth)

adelaide.edu.au
What is copyright?

- A set of exclusive rights given to authors or creators of works, or copyright owners to protect their works against unauthorised use

Copyright **protects**:

- The expression of “original” ideas *in a material form*

Copyright **does not protect**:

- Ideas or concepts
- Styles or techniques
- Information
What does copyright apply to?

<table>
<thead>
<tr>
<th>Works:</th>
<th>Subject Matter Other than Works (SMOW):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Literary</td>
<td>Cinematograph films</td>
</tr>
<tr>
<td>- books, journal articles, newspaper articles, song lyrics</td>
<td>Sound recordings</td>
</tr>
<tr>
<td>Dramatic</td>
<td>- as distinct from the underlying music or lyrics</td>
</tr>
<tr>
<td>- Plays</td>
<td>TV &amp; radio broadcasts</td>
</tr>
<tr>
<td>Artistic</td>
<td>Typographical arrangement &amp; layout of publications</td>
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<tr>
<td>- paintings, sculptures, photographs</td>
<td></td>
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<tr>
<td>Written music</td>
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</table>

Copyright Act 1968 (Cth)
Copyright Act 1968 (Cth)

What does having “copyright” actually mean?

<table>
<thead>
<tr>
<th>Owners of copyright in <strong>Works</strong> have exclusive rights to:</th>
<th>Owners of copyright in <strong>SMOW</strong> have exclusive rights to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Reproduce the work</td>
<td>• Reproduce the work</td>
</tr>
<tr>
<td>– photocopy</td>
<td>• Show films or play sound recordings in public</td>
</tr>
<tr>
<td>– scan</td>
<td>• Transmit films or sound recordings to the public using any form of technology</td>
</tr>
<tr>
<td>– film</td>
<td>– on television or radio</td>
</tr>
<tr>
<td>• Make the work public for the first time</td>
<td>– during a public screening</td>
</tr>
<tr>
<td>– publish</td>
<td></td>
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<tr>
<td>• Communicate the work to the public</td>
<td></td>
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<tr>
<td>– via email</td>
<td></td>
</tr>
<tr>
<td>– broadcast</td>
<td></td>
</tr>
<tr>
<td>– the internet</td>
<td></td>
</tr>
<tr>
<td>• Perform the work in public [*excluding artistic works]</td>
<td></td>
</tr>
<tr>
<td>• Make an adaptation</td>
<td></td>
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<tr>
<td>– translation or arrangement [*excluding artistic works]</td>
<td></td>
</tr>
</tbody>
</table>
Copyright Act 1968 (Cth)

Who owns copyright?

- The individual author/creator/writer/composer
- Or
- Their employer if created in the course of employment

however

- Ownership of copyright can be assigned (given to another party) by contract
  - book authors often assign copyright to the publisher

- Duration of copyright protection (as of 1 January 2005)
  - The life of the author/creator + 70 yrs

- Duration of copyright of works owned by the Government
  - 50 yrs after first publication of the work
The University uses other people’s copyrighted materials for:

- Teaching purposes
  - course packs
  - playing videos in lectures
- Research purposes
- Musical performances

The University creates copyrighted materials such as:

- Journal articles, books & papers
- Course curricula & materials
- Photographs
- University websites
What must I do when using other people’s copyrighted material?

- Obtain permission or licence from the copyright owner or be able to rely on licences or exemptions under the Copyright Act. (More information on the following page)

- Respect the creator’s Moral Rights;
  - of attribution
    - the authorship must be correctly cited
  - of integrity
    - material must not be used in a derogatory way - such as distorting, mutilating, materially altering or exhibiting the work in a way that prejudices the creator’s honour or reputation
  - to not have authorship of a work falsified

- No permission is required if using;
  - materials owned by the University
The University’s copyright licences

- The University has **educational statutory licences** which allow it to copy and communicate certain material in the following categories:
  - Audio-visual material from broadcasts
  - Print and graphic material

- The University is also party to a **Collective Music Licence** that allows students and staff to perform musical works and to copy / communicate sound recordings for educational purposes.
What am I allowed to copy for University purposes?

Educational Statutory Licence: Print and Graphic Material

*Staff may copy & distribute in hard copy or electronically:*

- For teaching purposes only
- To enrolled students & staff
- A reasonable portion:
  - 10% of pages or 1 chapter from a book
  - 1 article per journal/newspaper issue
    - the same limits on copying apply to online & hard copy copies
- Electronic copies must only be made available via MyUni through the Digital Resource Management Centre
What am I allowed to copy for University purposes? (cont)

Audio-visual material from broadcasts

Staff may copy:

- The whole of the broadcast;
  - Including podcasts previously broadcast in Australia
    - according to the licence on the website
  - Copies can be made available online
    - But only to current staff & students via MyUni
  - Warning notice included at start of recording
  - Does not apply to video on demand or exclusive online content

- In any format;
  - video or audio tape, DVD or CD, digital format
Copyright Act 1968 (Cth)

Labelling Requirements

• All copies of Works and SMOW must be clearly labelled with dates & content

• **Music labelling requirements:**
  – Title of each musical work
  – Name of each composer &/or lyricist &/or arranger of the musical work
  – (If you have copied from a CD or similar), the artist/group name & the record company label

• **Radio & TV broadcast labelling requirements:**
  – Made for the University of Adelaide under Part VA of the Copyright Act 1968
  – Station/Channel
  – Name of Program
  – Date program was transmitted
  – Date this copy was made (if different)
What am I allowed to copy for University purposes? (cont)

**Music:**
- We have a licence to copy, communicate & publicly perform sound recordings;
  - For educational purposes
  - For use at other University events
  - Provided the sound recordings are on the University licensed list

- Commercially hired or purchased videos, DVD’s or CD’s may be played or shown in a class without infringement
  - Restrictions may apply on recording the lecture

‘Fair Dealing’ Exemption:
- Staff & students can make copies for research purposes
- **BUT**
- copying must be “fair”
  - 10% of pages or 1 chapter from a book
What am I allowed to copy for University purposes? (cont)

**Openly licenced material:**

- Copyright owners can release material under an “open licence” that allows it to be used in certain ways without asking for permission
  - *Creative Commons are the most common open licences*
    - Operates on a “some rights reserved” model
    - Always attribute creator and follow the licence conditions
  - *Websites terms and conditions*
    - Check to see if they permit use for non-commercial educational purposes

**Electronic material available through the Library:**

- Copying of material is generally permitted for private research purposes
  - Check terms and conditions before copying for other purposes
What can happen if I don’t comply?

**Individual Consequences:**

- Fines of up to $115,500 for breach of Copyright; and / or
- Imprisonment for up to 5 years
- Copyright owners can sue you personally
- A breach of copyright may be considered misconduct actionable under the University’s Enterprise Agreement
What can happen if I don’t comply?

_University Consequences:_

- Fines of up to $580,000 for breach of copyright

- Loss of University’s copyright licences
  - *Inability to undertake learning & teaching functions*

- Copyright Owners can sue the University

- Negative publicity
  - *Damage to the University’s reputation*
  - *Attraction & retention of staff & students is compromised*
Copyright Act 1968 (Cth)

University Obligations under the Act

• Be aware of **what & how much** you can copy

• Only copy other people’s works if a licence or exemption applies

**Otherwise,**
• Obtain permission first
  – *Keep a written record of the request & permission given in case of dispute*
  – *Observe any conditions of the permission*
Copyright Act 1968 (Cth)

University Obligations under the Act (cont)

REMEMBER:

• A work does not need the copyright symbol © for it to be *copyright protected*

• One work may contain more than one copyright
  – *a song has copyright in the lyrics & the music*

• Just because work is on the internet doesn’t mean it can be freely copied & distributed;
  – Check the permission or licence
  – Material may be on the internet illegitimately
    • *Such as many YouTube videos*

• Owning the physical item does not give ownership of copyright in that work
  – *purchasing a painting does not give you copyright in the picture*
  – *owning a CD does not give you copyright in the music*
Copyright Act 1968 (Cth)

University Obligations under the Act (cont)

**REMEMBER:**

- Modifications to a copyright work to create a new work may not avoid copyright infringement

- Always respect the creator’s Moral Rights;
  - *Cite authorship correctly - giving an author “credit” or acknowledgement may not be enough*
  - *Includes attribution for any images included in PowerPoints*

- Do not use copyrighted material in a derogatory way that could affect the creator's standing or reputation

- For further information about copyright, refer to the [University Library Copyright website](https://www.adelaide.edu.au/library/copyright/)

University of Adelaide
Additional Resources

- Anne Hawkins, Copyright and Open Access Coordinator, University Library
  - 8313 3706

- University of Adelaide copyright website (University Library)

- University of Adelaide Copyright policy

- Copyright Induction for Staff
  - online module available on MyUni

- Copyright Act 1968 (Cth)

- Copyright Regulations 2017 (Cth)
Disclaimer

The content of this material is intended only to provide a summary & general overview of the Copyright Act as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Anne Hawkins, Copyright and Open Access Coordinator if you are unsure of your compliance obligations under the Act.