Copyright Act 1968

(Commonwealth)

Note: Amendments to streamline processes under the Copyright Act will commence on 23 December 2017. Please contact Legal and Risk Branch for more detail.
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?

### Works:
- **Literary**
  - books, journal articles, newspaper articles, song lyrics
- **Dramatic**
  - Plays
- **Artistic**
  - paintings, sculptures, photographs
- **Written music**

### Subject Matter Other than Works (SMOW):
- **Cinematograph films**
- **Sound recordings**
  - as distinct from the underlying music or lyrics
- **TV & radio broadcasts**
- **Typographical arrangement & layout of publications**
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>– <em>photocopy</em></td>
<td>• Show films or play sound recordings in public</td>
</tr>
<tr>
<td>– <em>scan</em></td>
<td>• Transmit films or sound recordings to the public using any form of technology</td>
</tr>
<tr>
<td>– <em>film</em></td>
<td>– <em>on television or radio</em></td>
</tr>
<tr>
<td>• Make the work public for the first time</td>
<td>– <em>during a public screening</em></td>
</tr>
<tr>
<td>– <em>publish</em></td>
<td></td>
</tr>
<tr>
<td>• Communicate the work to the public</td>
<td></td>
</tr>
<tr>
<td>– <em>via email</em></td>
<td></td>
</tr>
<tr>
<td>– <em>broadcast</em></td>
<td></td>
</tr>
<tr>
<td>– <em>the internet</em></td>
<td></td>
</tr>
<tr>
<td>• Perform the work in public [<em>excluding artistic works]</em></td>
<td></td>
</tr>
<tr>
<td>• Make an adaptation</td>
<td></td>
</tr>
<tr>
<td>– <em>translation or arrangement</em> [<em>excluding artistic works]</em></td>
<td></td>
</tr>
</tbody>
</table>
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
  • The life of the author/creator + 50 yrs
Why is copyright relevant to the University?

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

- The University has two copyright Licences under the Act
  - Part VB Licence
    - *printed works*
  
  - Part VA Licence
    - *TV & radio broadcasts*
What must I do when using other people’s copyrighted material? (cont)

• 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
  – an “insubstantial portion” of the work
    • Usually less than 1%
What am I allowed to copy for University purposes?

Printed Material (Part VB Licence)

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

- For teaching purposes only
- To enrolled students & staff
- Within prescribed limits
  - “fair” = 10% of pages or 1 chapter from a book
    - * the same limits on copying apply to online & hard copy copies

- With prescribed warning notices attached advising that copyright owners can take legal action against persons who infringe their copyright
  - Display notices within viewing distance of any machine capable of copying text or images which is accessible by students or non-staff members
What am I allowed to copy for University purposes? (cont)

Radio and TV Broadcasts (Part VA Licence)

**Staff may copy:**

- The whole of the broadcast;
  - Including podcasts (according to the licence on the website)
  - Copies can be made available online
    - But only to current staff & students

- In any format;
  - *video or audio tape*
  - *DVD or CD*
  - *digital format*
  - *stored on a web server*
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)
Copyright Act 1968 (Cth)

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)

**Public domain material:**

- Copyright Owners of Public Domain Material can specify which rights they reserve & which rights they waive for the benefit of recipients or other creators
  - *Websites permitting use for non-commercial purposes*
  - *Internet material available as “shareware”*

  OR

  - *Internet material available under “Creative Commons”*
    - offering some of your copyright to another person, but on certain conditions

**Electronic journals accessible through library catalogues:**

- Copying of material is generally permitted for educational purposes
- Different publishers have different restrictions
What can happen if I don’t comply?

*Individual Consequences:*

- Fines of up to $93,500 for breach of Copyright
- Imprisonment
- 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 $450,000 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*
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*

*and*
- Include warning notices on copies made under Part VA or VB licence
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*

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

- Participate in the external audit process by the regulator for Part VA & VB licences if required - usually every 3 to 4 years

- For answers to common queries relating to copyright implications in communication materials electronically, MyMedia technologies & MyUni, see Online Copyright Questions
Copyright Act 1968 (Cth)

**Additional Resources**

- [Ben McKay](#), University Copyright Officer
  - 8313 0065
- [University of Adelaide copyright website](#)
- [University of Adelaide Copyright policy](#)
- [University of Adelaide Collective Agreement](#)
- [Copyright Induction for Staff](#)
  - online module available on MyUni
- [Copyright Act 1968 (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 Ben McKay, University Copyright Officer or Legal & Risk if you are unsure of your compliance obligations under the Act.

© University of Adelaide, 2014