
Copyright

What can you legally copy for research or study?

What does Australia's Copyright Act 1968 protect?

Written material such as journal articles, novels, poems, song lyrics and reports.

Artistic works such as paintings, drawings, cartoons, sculpture, craftwork, photographs, maps, and plans.

Musical works.

Dramatic works such as plays and mime.

Computer programs

Compilations such as anthologies, directories and databases.

Cinematograph films such as feature films, television programs and commercials.

Sound recordings such as recorded music or a recorded lecture.

How you can infringe copyright.

Generally, this happens when you copy protected material without the copyright owner's permission. Copying even just part of a work may mean that you have infringed copyright. Copyright could be infringed under the following circumstances:

- playing or performing a work in public – that is outside a domestic environment;
- communicating a work to the public (for example this could happen by broadcasting or emailing, or by making the work available online or via cable);
- translating text;
- making an arrangement or transcription of a musical work;
- creating a dramatic work from a non-dramatic work (eg a choreographic work from a short story); and
- creating a non-dramatic work from a dramatic work (for example, a short story from a screenplay).

Using copyright material for research or study

There is a special provision in the Copyright Act, which allows you to use copyright material for the purpose of research or study. Under these circumstances you do not infringe copyright, provided your use is fair.

Firstly, if you are reproducing text or printed music, which is published as an edition of 10 or more pages, the Act deems that it is fair to copy:

- 10% of the number of pages; or
- one chapter, if the work is divided into chapters.

For text material published in electronic form, it is deemed fair to reproduce one chapter or 10% of the number of words. If the text is available in hardcopy and separately in electronic form, you can either apply the test relating to the number of pages or relating to the number of words to decide what is deemed as fair and appropriate.

Secondly, the Act deems that it is fair to reproduce an article from a newspaper, magazine or journal. You may copy more than one article if each article relates to the same subject matter, for example, articles about the Bali Bombing from a newspaper, or three articles on stem cell research from a science magazine, or two or more articles about aboriginal land rights from a legal journal.

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For other material, such as drawings, photographs, unpublished material, etc. the Act does not state how much you may use without permission. Rather, you must consider whether in all circumstances, it is fair to use the material.

The Act sets out the following five factors to help you work out whether, in all the circumstances, your use is fair in relation to reproductions of copyright material for the purpose of research or study:

- the purpose and character of the dealing (for example, copying in connection with a course is more likely to be fair than copying for research which may be used commercially);
- the nature of the work (for example, it may be less fair to copy a work resulting from a high degree of skill than a mundane work);
- the possibility of obtaining the work within a reasonable time or at an ordinary commercial price (generally, it may be fair to copy all of a work, such as a book, a poem or a photograph which is not available commercially, but unfair to photocopy all or most of a work that you can buy);
- the effect of the dealing on the potential market for, or value of, the work (for example, making more than one copy is less likely to be fair than making one copy); and
- in a case where only part of the work is copied, the amount and substantially of the part copied in relation to the whole work (it is less fair to copy a large or important part of the work than to copy a small or unimportant part).

What is meant by “research” and “study”?

According to the Australian Copyright Council “research” and “study” under the Copyright Act mean the same thing. The Council provides the following from the Macquarie dictionary:

“Research” means the diligent and systematic inquiry or investigation into a subject in order to discover facts or principles...

“Study” includes: (1.) The application of the mind to the acquisition of knowledge, as by reading, investigation, or reflection; (2.) the cultivation of a particular branch of learning, science, or art ... (3.) a particular course of effort to acquire knowledge; (5.) a thorough examination and analysis of a particular subject.

The information sheet listed below has more detailed information of the following questions:

- How much can be copied from newspapers?
- Can you copy a whole book if it is no longer published?
- Should you acknowledge the source of something you have copied?
- Can material from the Internet be used for research?
- Can material from a CD-ROM be copied onto a disk?
- Can you publish material on a web site without receiving permission from the copyright owner?
- Is it possible to copy a video or tape a television program?
- Can you get somebody else to copy material for you for your own research and study?

Sources:

Copying for research and study: information sheet G53, July 2001, Australian Copyright Council, Retrieved 13 November 2004,