



## What is Copyright?

Copyright refers to the exclusive rights given to a creator to publish, print, perform or copy their own original work. In Australia, copyright is applied through the *Copyright Act 1968*. The *Copyright Act* aims to balance the rights of the creator, or copyright owner, to manage and protect their own works with the needs and the rights of the public to use these works.

## When does Copyright Apply?

Copyright applies automatically as soon as an idea is expressed in a material form, i.e. written down or recorded in some form, such as a book, music CD or website. It exists in both published and unpublished material as well as in electronic material. Copyright protects all forms of documented expression or works.

For the purposes of copyright, “works” can be divided into 4 categories:

Category of “Works”	Literary	Dramatic	Musical	Artistic
<b>Selected Examples</b>	Books, journal articles, short stories, poems, song lyrics, computer programs	Plays, television, radio and film scripts	Musical scores, notated music	Illustrations, images, photographs, maps, graphs, charts

In addition to these “works”, there are four other subject matters covered by copyright:

Subject Matters	Films	Sound Recordings	Broadcasts	Published editions
<b>Selected Examples</b>	Documentaries, TV programs, feature and animated films	Vinyl records, compact disc, audiotapes, cassettes, mp3 files	The actual broadcasts of TV and radio programs	A published edition of a Shakespeare play or a score for a Mozart concerto

What differentiates these “subject matters” from the “works” is that subject matters can be subject to copyright for more than one element. For example, a broadcast of a TV documentary would contain copyright in the broadcast itself as well as the script, music, extracts from other films, artistic works and so on. Additionally, the copyright in “subject matters” recognises and protects the work involved in creating the film, sound recording, broadcast or published edition of the original copyrighted work or works.

## Websites and Email

Websites and other electronic formats, such as emails, are considered published material and is protected by copyright. The *Copyright Act* uses the term “communication” to describe material that is made available on a website or via email. Communication also includes faxing. Although it is possible to download, print or copy material available on websites, it is important to note that this may well be an infringement of copyright, unless you have the creator’s/copyright owner’s permission. Check the terms of use of the website to see what you may or may not do, if there are no terms of use available, then you may only do what you are normally allowed under the *Copyright Act*.

### Works in the “Public Domain”

“Public Domain” is often used to describe information that is freely accessible on the Internet. However, this type of material is mostly still subject to copyright. In the copyright context the term “public domain” has a more specific meaning. It refers to material where copyright has expired or the copyright owner has licensed the material so that it can be used in certain ways without the permission of the copyright owner, e.g. Creative Commons (<http://www.creativecommons.org.au>)

## Unpublished Material

Finally, **unpublished material** is also protected by copyright. Material is considered unpublished until it is published, played, performed or otherwise made available to the public. Copyright for unpublished material lasts indefinitely or until the item is published. Once the item is published, the duration of copyright depends on the type of work or subject matter.

## How Long does Copyright Last?

Although, copyright protection is automatic, it does not last forever. The **duration** of copyright varies depending on the type of work or format. Generally copyright in a work lasts from when it was created to 70 years after the year of the author's death or in the case of joint authors the death of the last joint author. For more information see: <http://www.unimelb.edu.au/copyright/information/fastfind/#duration>. If copyright has expired, the work is considered to be in the public domain and can be used without permission from the copyright owner.

## Who Owns Copyright?

The creator, e.g. the author of the work, usually owns the copyright. However, the creator may assign or license some or all of their rights to a third party, such as a publisher. If the work has been created as part of a person's employment, then the employer is the copyright owner. The University is the copyright owner for any material created by staff in the course of their employment. Academic staff own copyright in their scholarly work but the University owns copyright in any teaching materials created by academic staff. For more information see the University's Intellectual Property (IP) Statute <http://www.unimelb.edu.au/ExecServ/Statutes/s141.html>. Although the University owns copyright, staff hold moral rights (i.e. the right to be credited) in material that they create.

## Rights of Copyright Owners

The purpose of the *Copyright Act* is not only to protect the rights of the creator but also to allow others to access the creator's work. Under the *Copyright Act*, the creator has the exclusive right to do certain things with their material. These include:

- reproduce the work: including photocopying, copying by hand, filming, recording and scanning;
- make the work public for the first time;
- broadcast the work, or transmit it to subscribers.
- Owners of copyright in literary, dramatic and musical works also have the exclusive right to:
  - perform the work in public: performing a work live, or playing a recording or showing a film containing the work, in a non-domestic situation;
  - make an adaptation: this means a translation or dramatised version of a literary work, a translation or “non-dramatic” version of a dramatic work, and an arrangement or transcription of a musical work.
- Owners of copyright in films, sound recordings, broadcasts and published editions have the exclusive right to copy their material and rights relating to:
  - showing films and playing recordings in public;
  - broadcasting films and sound recordings;
  - transmitting films to subscribers by cable; and
  - rebroadcasting television and sound broadcasts.

This means that if anyone, other than creator, wishes to do any of the above, they must obtain the creator's, or copyright owner's, permission. Often, this will involve paying a fee. However, there are some exceptions and circumstances where you do not need to seek permission.

### **Always Acknowledge Your Sources!**

It is also important to acknowledge the creator's moral rights. Moral rights are defined as the rights for the creator to be credited for their work, not to have their work falsely attributed to another party and not to have their work treated in a derogatory way.

## **Using Copyright Material**

The *Copyright Act* recognises that there are circumstances when other people need to be able to access material without having to seek permission from the creator/copyright owner. You are entitled to reproduce, communicate, publish or perform a work without permission under the following circumstances and exceptions if:

- You own the copyright for the work;
- The University of Melbourne owns the copyright and you are a staff member or student of the University wishing to use the material for University of Melbourne purposes or business;
- Copyright in the work has expired; (<http://www.unimelb.edu.au/copyright/information/fastfind/#duration>)
- You are copying or communicating an insubstantial portion; ([http://www.unimelb.edu.au/copyright/information/fastfind/FF\\_insubstantial.html](http://www.unimelb.edu.au/copyright/information/fastfind/FF_insubstantial.html))
- You have an express licence to use the work, e.g. a contract, web site conditions, copyright owner has explicitly waived copyright, etc;
- Your proposed use is a fair dealing and you observe the limits and rules under the fair dealing provisions;
- You are copying or performing music for educational purposes as covered by the Music Licence;
- Your use of text, graphic or broadcast material is for the educational purposes of the University as described in the Statutory Licence provisions;
- Your wish to reproduce the material for personal use and you observe the limits and rules under the personal use provisions.

For any other situation, you must seek permission from the copyright owner for your intended use. For more information see: <http://www.unimelb.edu.au/copyright/information/fastfind/permission.html>

## **Fair Dealing**

Under fair dealing, the copyright in a work is not infringed if the dealing is fair and for the purposes of:

- research and study
- criticism or review
- parody or satire
- reporting news; or
- a judicial proceeding or report of a judicial proceeding.

Limitations do apply, particularly for the purposes of research & study. Researchers and students rely on fair dealing for research & study to reproduce material related to their study and/or research. For more information see: [http://www.unimelb.edu.au/copyright/information/fastfind/FF\\_fairdealing.html](http://www.unimelb.edu.au/copyright/information/fastfind/FF_fairdealing.html)

## **Educational Purposes**

The *Copyright Act* includes Statutory Licences outlined in Parts VA & VB of the Act that allow material to be reproduced, communicated or performed for educational purposes. Educational purposes are defined in the Act as for a particular course provided by the University or for the administration of that course, or for inclusion in the University's library collection.

Part VA, also known as the ScreenRights Licence, allows TV and radio broadcasts as well as podcasts or webcasts of broadcasts to be used for educational purposes. Part VB, also known as the CAL Licence, covers the

reproduction or communication of literary, dramatic, musical or artistic works in either hardcopy or electronic format.

Limitations and conditions do apply to the use of the Statutory Licences. Full guidelines are available from <http://www.unimelb.edu.au/copyright/information/guidelinesedpurp.html> An information guide on *Online Teaching Resources and Copyright* is also available from the Copyright Office.

s 28 of the Copyright Act allows copyright material such as films & recorded music to be performed in class for educational purposes, see: [http://www.unimelb.edu.au/copyright/information/eduse\\_nonmusical.html](http://www.unimelb.edu.au/copyright/information/eduse_nonmusical.html)

## The Music Licence

The University holds a Music Licence that permits recorded music to be reproduced and/or performed for educational purposes. The Music Licence also allows limited performance of music for non-educational purposes. It does not cover notated, or sheet, music. Limitations and conditions do apply. Full details are available: <http://www.unimelb.edu.au/copyright/information/musiclicence.html>

## Personal Use

The *Copyright Act* also allows the limited reproduction of some copyright material for personal use, so long as you own a legal copy of the work being reproduced. Personal use covers:

- time shifting of TV and radio broadcasts, i.e. recording a TV program to watch later at a more convenient time;
- space shifting of sound recordings, i.e. copying a CD that you own to your own iPod or mp3 player;
- format shifting of certain types of material, i.e. printing out an e-book that you own.

Limitations and conditions apply. For more information see:

[http://www.unimelb.edu.au/copyright/information/fastfind/FF\\_personaluse.html](http://www.unimelb.edu.au/copyright/information/fastfind/FF_personaluse.html)

## Infringing Copyright

It is important that you do not infringe copyright when using copyright material. Make sure that you do not use or link to infringing material, such as illegal music, movies and software, from the internet. University regulations require that all staff & students not infringe copyright. The University will take disciplinary action against staff & students found infringing copyright using University facilities or networks. Staff & students may also be liable for legal action from the copyright owners.

## More Information

- University Copyright Office Website <http://www.unimelb.edu.au/copyright/>
  - Fast-Find Index - an A-Z glossary of copyright terms and topics <http://www.unimelb.edu.au/copyright/information/fastfind/index.html>
  - Guidelines for Using Copyright Material for Educational Purposes <http://www.unimelb.edu.au/copyright/information/guidelinesedpurp.html>
- Australian Copyright Council Website <http://www.copyright.org.au/>
- Gerdson, Trevor, *Copyright: A User's Guide*, Melbourne: RMIT University Press, 2003
- Australian Copyright Council, *Educational Institutions: Texts, Images & Music, A Practical Guide*, 2002.
- Contact the Copyright Office <http://www.unimelb.edu.au/copyright/contact.html>

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