

# **COPYRIGHT GUIDELINES FOR SA SCHOOLS**

## **What is copyright?**

The SA Copyright Law No. 98 of 1978 (as amended) gives authors and creators a 'bundle' or 'suite' of exclusive rights over their original works, for certain period.

## **What works are protected under copyright?**

Literary, musical and artistic works, cinematograph films, sound recordings, broadcasts, programme-carrying signals, computer programs and published editions.

## **What are the rights of authors and creators?**

They have the sole or exclusive right to authorise that their works be –

- reproduced in any manner or form;
- published;
- performed in public;
- broadcast;
- transmitted in a diffusion service
- adapted/translated

Copyright provides authors and creators with an incentive to create new works and derive some economic benefits for their efforts.

## **How long are works protected by copyright?**

Subject to exceptions depending on the category of work, the term of copyright protection is the lifetime of the author/creator plus 50 years from the end of the year in which the author dies. The publisher also has copyright in the published version for 50 years from the end of the year in which the edition is first published. When the copyright term expires, the work goes into the public domain, which means that it may then be used and reproduced freely (with proper acknowledgement).

## **May users of information use and reproduce copyrighted works?**

Yes, the Copyright law has some "limitations and exceptions" to the exclusive rights of the author.

Section 12(1) of the Copyright Act allows "Fair Dealing". Fair Dealing is not defined in the Act, so one has to use one's discretion when using other people's intellectual property. Anyone may make a reasonable portion of a work (with proper acknowledgement), for the following purposes, without having to apply for copyright permission:

- for research or private study,
- for personal or private use,
- for criticism or review
- for reporting current events (such as in a newspaper or broadcast),

Section 12 (2-4) allows copying, without permission –

- for using the work for judicial proceedings, or for a report of such proceedings,
- for quotation ,
- “by way of illustration” for teaching purposes (such as placing an extract of a work on an overhead projector or in a PowerPoint presentation, to highlight aspects of a lecture or training session).

Section 12 (5-11) has other exceptions.

### **May teachers/learners copy for teaching/educational purposes?**

Yes, in terms of Section 13 (Copyright Regulations), a teacher may give a limited number of separate/single handouts to learners in a classroom situation without having to get permission. The copies, however, may not be included in compilations (e.g. study-packs/course-packs) or handed out with other copyrighted material. A learner may make a single copy for a teacher, at his/her request, for teaching, preparation for teaching, or research purposes.

There are a lot of publications and digital works that allow reproduction for non-commercial or educational purposes, without having to get permission. You would need to check the copyright notices inside the printed publications or read the copyright notices on websites. There is also a great deal of free material on the Web. However, remember not all material on the Web is free. Many websites and electronic databases have strict copyright conditions and you may only use or copy their material in terms of their licence agreements. Proper acknowledgement must always be given, even if the material is free. For many useful free, open access and/or open educational resources, see: [http://libguides.wits.ac.za/Open\\_Educational\\_Resources](http://libguides.wits.ac.za/Open_Educational_Resources) and [http://libguides.wits.ac.za/openaccess\\_a2k\\_scholarly\\_communication](http://libguides.wits.ac.za/openaccess_a2k_scholarly_communication)

### **May teachers/learners show or watch a film, video, DVD, etc. for teaching or other educational purposes?**

Yes, in terms of Sections 12 and 16, an extract of a film, video or DVD may be shown to learners for teaching, critical review or other educational purposes. However, a full-length film, video or DVD may not be shown without permission, unless the licence specifically allows this, or it is free without restrictions, e.g. Open Access material, Open Educational resource (OER) and/or under a Creative Commons licence, (<http://creativecommons.org>). TED and YouTube films may be shown to learners for educational purposes in their original online format. However, they may only be downloaded if they are free or open educational resources, or if prior copyright permission has been obtained.

### **Without prior copyright permission, you would be infringing the SA Copyright law if you were to: -**

- copy a whole book or journal, or major portion of a book or journal (including an out-of-print book), except in special circumstances,
- copy sheet music, commercial audiotapes, videos, CDs, DVDs, films or other original works,
- translate, adapt, modify or convert material into different or alternative formats (even for persons with sensory disabilities),
- make copies, beyond the limits permitted in Section 12 (Fair Dealing) and Section 13 (Regulations),

- scan, digitise or place material on the Web, where permission is specifically required,
- download multiple copies of material from electronic databases or the Internet, where permission is specifically required,
- play copyrighted music or perform a copyrighted musical for a public audience or at a school event, e.g. fete, disco, assembly, cultural event or other public event,
- perform a copyrighted play or drama for a public audience or at a school event, e.g. assembly, concert, cultural event, etc.
- show a full-length copyrighted video, film or DVD to a public audience or at a school event, e.g. assembly, concert, cultural event, etc.
- reproduce copyrighted hymns or show them on slides for a public assembly or congregation,
- create, replace or substitute anthologies, compilations or collective works,
- make copies of, or from, works intended to be ephemeral, including workbooks, exercises, standardised tests, test booklets and answer sheets, or similar ephemeral material,
- make copies to substitute for the purchase of books, publishers' reprints or periodicals,
- provide reproductions of copyrighted works for users/learners to copy from,
- make a backup copy of a computer program or an authorised copy, other than for personal or private purposes.

### **May a librarian make copies for teachers or library users?**

Yes, a librarian may make a single copy of a reasonable portion of a work for a teacher or other library user, as long as it is for research or private use. Sub-clause 3(f) permits a librarian to obtain a single copy for a teacher or library user via interlibrary loans or document supply services. However, a librarian may not make multiple copies for a teacher or other library users, without prior permission from the rightsowners.

### **May a librarian make copies or format-shift for preservation purposes?**

Sub-clauses 3(d), (e) and (h) permit preservation and/or replacement of works, with specific conditions. However, a librarian may not format-shift material for preservation purposes, e.g. convert VHS videos to DVDs, unless specifically permitted by their licences, or permission has been obtained from rightsowners.

### **Do libraries need to place copyright warnings near copying equipment?**

Yes - Section 13(6) provides for copyright warning notices in libraries and archive depots.

Section 13(6)(1) requires that the Copyright Warning Notice (see below) should be displayed at the place where orders for copies are accepted by libraries or archives. The Notice should also be incorporated in all forms supplied by libraries or archives and used by users of the general public for ordering copies. It must also be placed where unsupervised copying equipment is located.

The Notice should be printed on heavy paper or other durable material in type at least 18 points in size, and should be displayed prominently, in such manner and position as to be clearly visible, legible and comprehensible to a casual observer in the immediate vicinity of the place where orders are accepted or where unsupervised equipment is located.

## COPYRIGHT WARNING

The Copyright Act, 1978 governs the making of photocopies of other reproductions of copyrighted material. Under the provisions of the Act, libraries and archive depots are authorised to supply photocopies or other reproductions. One of the provisions is that the photocopy or reproduction is not to be used for any purposes other than private study or personal or private use.

If a user makes a request for, or later uses, a photocopy or reproduction for purposes not permitted by the Act, that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its opinion, fulfilment of the order might involve violation of the Act.

### **How does infringement affect the author or creator?**

If authors' published works are copied illegally, their works are not purchased, so they lose out on sales. This has a direct impact on their income. Prices of publications and other works increase as a result. It also discourages authors from creating new works. This could result in a shortage of educational publications. Buying pirated CDs or DVDs on the street corners not only affects the creators' income, but raises the prices in stores for honest customers and also perpetuates crime in our country.

### **How does one apply for permission?**

One would need to apply for permission directly to the publisher, author (for unpublished or out-of-print material), Webmaster, newspaper editor, database supplier, film director, conference organiser, artist, broadcaster, computer director/programmer, e-database provider, or other copyright owners, as the case may be. For permission specifically to make photocopies, one can apply to the Dramatic, Artistic and Literary Rights Organisation (DALRO) ([www.dalro.co.za](http://www.dalro.co.za)). To copy music, one can apply to the South African Music Rights Organisation ([www.samro.org.za](http://www.samro.org.za)).

For further Copyright and related information, see:

- [http://libguides.wits.ac.za/Wits\\_Copyright\\_Guidelines](http://libguides.wits.ac.za/Wits_Copyright_Guidelines)
- [http://libguides.wits.ac.za/Copyright\\_and\\_Related\\_Issues](http://libguides.wits.ac.za/Copyright_and_Related_Issues).

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