

Copying for Personal Use

Introduction

The Copyright Act does not contain a general exception allowing you to copy or use copyright material for “personal use”. However, there are some specific personal use exceptions in the Act.

What are the personal use provisions?

Format-shifting of sound recordings

In October 2008, a new copyright exception came into force which allows copying of sound recordings for personal use, provided the following conditions met:

- You must own the sound recording. It cannot be a hired or borrowed copy;
- You can only copy from a legitimate copy of the sound recording, that you have acquired legitimately. For example, the exception doesn't permit copying of pirated, burnt or stolen CDs;
- You can use the copy only for your personal use or the personal use of a member of your household, or both;
- You cannot make more than one copy for each playing device you own;
- You must retain ownership of both the sound recording and any copy; and
- You cannot copy communication works. For example, the exception does not permit copying of sound recordings from radio broadcasts.

The format-shifting exception is intended to allow you to convert sound recordings to other formats, for example from CD to MP3. It does not permit copying for friends or online file-sharing.

Copyright owners can enter into contracts with users which may override the terms of the format-shifting exception.

The Copyright Act does not allow you to format-shift other copyright works, such as films, videos, books, newspapers, or photos, regardless of whether you own such items.

Time-shifting from radio and TV

The Copyright Act allows you to record from radio, TV or the Internet for your personal use or the personal use of a member of your household, or both, solely for the purpose of viewing or listening to the recording at a more convenient time.

The time-shifting exception does not permit recording from an on-demand service. For example, you can't rely on the exception to copy webcasts or podcasts, unless you are copying a streamed service by a radio or TV station. (Note - If you want to copy anything from a website, the first place to check is on the website itself to see whether it allows you to copy or download.)

You must have lawful access to the programme - so you cannot rely on the time-shifting provision if you have hacked into a pay TV station. You need to retain the recording for no longer than is reasonably necessary for viewing or listening to the recording at a more convenient date.

Recording for the purposes of complaining

You can record a TV or radio broadcast solely for the purpose of complaining to a complaint authority.

You cannot keep the recording for any longer than is reasonably necessary to prepare and dispatch the complaint.

Fair dealing

“Fair dealing” is not a general “personal use” exception to copyright infringement.

There are specific fair dealing exceptions to copyright infringement under the Copyright Act which allow certain uses of copyright material. For example, you can use copyright material for your own research or private study purposes, if your use is fair in the circumstances.

For further information see our information sheet on Fair dealing in New Zealand.

Back-up copy of computer programs

The Copyright Act allows you to make a back-up copy of an original computer program that you own, for your sole use.

You cannot make a back-up copy from an infringing copy. You cannot copy if it is contrary to the express direction of the copyright owner, for example, on the paperwork accompanying the program.

Tāwhia Copyright Aotearoa does not provide legal advice, only general information on copyright issues. If you require expert or legal advice on copyright, you should seek the services of a legal professional. For more information please contact us.