

Copyright and Libraries

This information sheet is for librarians and information managers. It provides introductory information about copyright and briefly outlines the provisions of the Copyright Act relating to libraries.

Introduction

- Libraries have evolved with the pace of technological development. They have transformed from physical repositories for published works – to information brokers.
- Libraries can provide users with digital and online access – as well as hard copy access – to a vast, worldwide repertoire of works.
- Librarians and information managers have a professional responsibility to provide services within a legal and ethical framework, which includes intellectual property rules.
- Copyright is a part of intellectual property law and provides incentives for creators to create, publish and distribute works. It gives a set of exclusive property rights to owners in relation to their creations, encouraging innovation and dissemination of new material – for the benefit of the community.
- Copyright creators and owners want their works to be accessed and used by the widest possible audience. However, they also want the ability to control the right to receive fair remuneration for the use of their work.
- Copyright law is found in the Copyright Act 1994 and in decisions of courts. The text of the Copyright Act can be found at www.legislation.govt.nz.

What types of work are covered by copyright?

Copyright protects certain works, whether in hard copy or electronic form. These are:

Literary works: Material that is written, spoken, or sung, including words of a book, song poem, magazine, article, speech. Includes computer programs.

Dramatic works: Includes a play, dance, mime, film scenario or script.

Artistic works: Includes a painting, drawing, diagram, map, photograph.

Typographical works: The typographical layout of words and associated elements on a page of books, magazines, journals, newspapers, posters, websites etc.

Musical works: Musical compositions (scores and sheet music).

Sound recordings: A recording from which sounds may be reproduced, such as audio tapes, CDs.

Films: Moving images such as on a video or DVD, separate from underlying works such as scripts and music.

Communication works: Including radio and TV broadcasts and Internet transmissions, separate from the films, music and other material which they contain.

Rights of copyright owners

Copyright owners have exclusive rights in relation to their work, to:

- Copy (photocopy, scan, record, download and store);
- Issue copies to the public (publish or distribute copies);
- Perform, play or show in public;
- Communicate to the public their work to the public (e.g. on radio, TV or the Internet);
- Adapt (e.g. translate a work from one language to another)

The Copyright Act qualifies copyright owner rights by allowing others, including libraries and archives, to use copyright works in certain circumstances (called “permitted uses”). The Library Permitted Use Table on page 5 of this information sheet summarises permitted uses relevant to the library and information sector.

Who owns copyright?

Usually, the creator of an original work will be the first owner of copyright in it. There are the following exceptions:

- where a work is created in the course of employment, the employer will be the owner;
- where someone commissions, and pays or agrees to pay for – a photograph, a computer program, painting, drawing, diagram, map, chart, plan, engraving, model, sculpture, film, or sound recording – the commissioner will be the owner.
- where works are made by Crown employees and contractors, the NZ government owns copyright (referred to as “Crown copyright”).

These positions can be varied by agreement.

Often there is more than one copyright owner in a single work. For example, while the author of a book may own copyright in the literary work, the book publisher has rights in the typographical layout of the work which exist independently from the written work.

How long does copyright last?

In New Zealand, copyright in literary, dramatic, musical and artistic works lasts for the life of the author plus fifty years. A publisher’s copyright (the copyright in the typographical layout of a published edition) lasts for 25 years. Other types of copyright material have different periods of protection.

Material not protected by copyright

A few specific types of “public” documents such as statutes, court judgments and official reports do not have copyright protection.

Getting permission to use copyright works

Generally, if you want to copy someone else’s copyright work (or use it in any of the other restricted ways), you need permission from the copyright owner. This means you need to contact that person or company directly to negotiate permission. If there is more than one copyright owner in a single work, you may need permission from more than one person. It’s a good idea to always get permission in writing.

In some cases, organisations can get licences from copyright collectives which give blanket permission to use copyright works in various ways (see paragraph 10).

Contracts

Contracts may permit more (or less) use of copyright than is allowed under the Copyright Act. The terms of any contract you enter into covering the use of a work will have an impact on how you can use it. Contracts generally override the provisions of the Copyright Act. Use of subscription materials, such as online databases, will be governed by contract terms. Website material will usually be accompanied by terms and conditions which must be adhered to.

When can you copy without permission?

You don’t need permission to use a copyright work if:

- The work is no longer protected by copyright. If the period of protection has expired, usual copyright rules no longer apply. Take care in determining whether copyright in a work has expired. If in doubt, assume that every work is covered by copyright.
- Only an insubstantial part of the work is used. “Insubstantial” covers a small and unimportant part of a work. Use caution when assessing substantiality. In most cases, research, study and other uses will call for use of a substantial or important part.
- A copyright exception applies - There are special circumstances in the Copyright Act where a person may deal with a copyright work without permission. These include:
 - o Fair dealing for criticism, review and news reporting;
 - o Fair dealing for research or private study;
 - o Certain educational uses; and
 - o Certain public administration uses.

There are also special privileges for libraries and archives which allow them to copy certain types and amounts of copyright material for their clients, for their own collections and for other libraries.

Blanket licences

Often the permitted uses in the Copyright Act do not give organisations the access they require to use copyright works for education or business purposes. There are a number of licensing schemes available that extend what can be done under copyright law. These include:

- Licence to copy from printed published works: Tāwhia Copyright Aotearoa <http://www.tawhia.nz/>.
- Licence to copy television and radio broadcasts: Screenrights www.screenrights.org/.
- Licence to copy, perform and make recordings of musical works: The Australasian Performing Rights Association <http://www.apra.co.nz/>.

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.