

10. Frequently asked questions concerning copyright issues

10.1 What is protected under the Copyright Act?

Literary (whether in written, printed or digital form), musical and artistic works, cinematograph films, sound recordings, broadcasts, programme-carrying signals, computer programmes and published editions.

10.2 Surely it is acceptable to photocopy as much as I want for my classes as long as it is for educational purposes, and not for profit?

The Copyright Act does not say anywhere that you may copy as much as you like as long as it is not for commercial purposes.

10.3 But the school has bought the book I want to copy from. If it belongs to the school, why must I ask someone else for permission?

You have to separate the physical property (the book) from the intellectual property (the content) contained in it. Ownership of the book is not the same as ownership of the ideas as expressed in it. The expression of those ideas belongs to the author. The publisher has a separate copyright in the published edition or the typographical arrangement on the page.

10.4 May I freely photocopy from a book that is out of print?

No. Out of print does not mean out of copyright. Copyright in the content lasts for 50 years after the death of the author. Copyright in the published edition lasts for 50 years from the date of publication.

10.5 Is it legal to photocopy an illustration (a photograph, map or diagram) and hand it out to my class for insertion into their exercise books?

No.

10.6 can't afford to apply for a licence to reproduce an artistic work. To what extent must I change it so that it is no longer a copy?

There is no copyright in ideas or in information, but there is copyright in the way they are expressed. It is legally acceptable to present the same information in an original, value-added manner, as long as it in no way resembles the genuine artistic work.

10.7 want to photocopy pages from a published workbook and hand them to my classes. Is this allowed by the regulations, since the purpose is "classroom use or discussion"?

No copies may be made from works intended to be ephemeral, including workbooks, exercises, standardised texts, etc. (sub-regulation 9(b)). * ephemeral – lasting for only a short time.*

10.8 May I enlarge and photocopy a map, picture or diagram and stick it on the wall of my classroom?

Yes, this is allowed by section 12(4) of the Copyright Act.

10.9 I am busy putting together an exam paper. May I include a short extract from a book?

Yes, if the extract is short you may reproduce it ("quote" from it), but you must cite the source and author (see section 12(3) of the Copyright Act).

10.10 May I photocopy a cartoon, 'tippex' out the words in the bubbles, and ask pupils to insert their own words?

No.

10.11 May I make a backup copy of a video and store it in the school library?

Yes.

10.12 How many copies of the chosen section may I copy for my students?

The copyright regulations promulgated in terms of section 13 of the Act permit multiple copies for students as follows: not more than nine instances of multiple copying may take place for one course of instruction to a particular class during any one term. Furthermore, only one copy per pupil per course may be made.

10.13 What must I do when I need to photocopy more than is allowed by the Copyright Act and Regulations?

You must obtain a licence. We will then advise you if the amount you wish to copy is permissible and quote you the charge for doing so. You will receive confirmation in writing.

If the material is not the copyright of Oxford University Press Southern Africa, The Dramatic, Artistic and Literary Rights Organisation (DALRO) is mandated by most publishers and authors worldwide to administer their reprographic reproduction rights and issue licences. Application for a licence should be made to DALRO. Write to DALRO, P O Box 31627, Braamfontein, 2017, or call (011) 489-5000. On receipt of the application, DALRO will issue a quotation of the cost.

10.14 How much does a licence cost?

In 2008 the university tariff for a transactional licence to photocopy is R 0,38 per page per photocopy plus VAT. The tariff is adjusted annually.

10.15 What about obtaining a licence to copy works published outside South Africa? Can I still apply to DALRO?

The application must still be submitted to DALRO, as they have reciprocal agreements with RROs in other parts of the world. DALRO will send the money collected to the RRO concerned.

10.16 Do the copyright regulations apply to school libraries and public libraries?

Yes. When making copies, a librarian may not photocopy the same extract for a whole crowd of students, whether they come into the library all at once, or one by one over a period of time. The purpose of this prohibition is to prevent abuse of the regulations, which permit certain acts of copying for classroom use or discussion, and also to prevent abuse of the fair dealing provision in section 12(1)(a) of the Act itself, which allows someone to make a single copy for personal and private use, or for scholarship or research. The following copyright warning must be displayed in the immediate vicinity of all unsupervised photocopying equipment.

How can a work reference the copyright owner of digital photographs, video, or sounds?

Include the copyright symbol and the name of the copyright owner directly on/under/around the digital material. It is virtually impossible to ensure that digital information located at any distance from the image/video would be seen by a user if the copyright notice is not directly attached to the material.

If the material is only used once for a class or a project, does the copyright owner need to be acknowledged?

Images, graphics and video should be credited to their owners/sources just as written material. Also, if you should change your mind and want to use material for commercial purposes, then it is important that you would know where and when you found the material and who the copyright owner is.

10.17 Is content on the Internet copyrighted?

Yes, everything on the Internet (including everything on the World Wide Web) is copyrighted. It is a common misconception that everything on the Web is in the public domain. While it is true that documents on the Web (and in other digital formats) are easier to reproduce and distribute than other media, the ease of reproduction and distribution does not change the copyright. Digital content is still copyrighted and copying or reproducing it without permission may be illegal.

10.18 Is linking to something on the Web a copyright violation?

When you create a hyperlink from one Web page to another, you have not made a copy of the original work, so this is not a copyright violation. Generally, you are also not expected to request permission to link to a Web page, though it is often considered courteous to do so.

10.19 If a lecturer has requested the library to buy a prescribe book and place it in the reserved section but by time the classes Commences, the book is not available at the publishers but the Lecturer has his/her own copy, can he/she make copies of the whole book and students pays for these copies?

No, it is illegal to make a copy of the whole book but copyright law only allows 10%.

10.20 How, then, might I get my work published, if only I am allowed to publish it?

By signing a contract with a publisher, you give him or her an exclusive licence to publish your work. An exclusive licence means that only the publisher with whom you have contracted may publish your work

10.21 Am I allowed to photocopy part of a book for my own personal and private use?

Copyright is not infringed by any fair dealing with a literary work for the purposes of the personal or private use of the work by the person making the copy. What is 'fair' in any given situation will always depend on the circumstances of that situation

10.22 But surely I am allowed to make more than one copy if there is no commercial gain involved?

The regulations to the act offer certain concessions for educational institutions and for non-profit libraries. These include a defined number of multiple copies strictly for classroom use or discussion, but exclude compilations

10.23 I want each of my student to copy for themselves an article from a journal. Can I put a photocopy of the article on the reserve shelf in the library for each student to photocopy under 'fair dealings'?

No. You need to apply for copyright clearance

10.24 How about if I put the journal itself (not a photocopy) on the Reserve shelf in the library and tell my to copy it for themselves?

Although each student may make a 'fair dealing' copy, 100 students each making a copy results in 100 copies, whereas fair dealing is intended to apply in the case of the single copy made by the person using the work

10.25 What, then, must I do if I need to make multiple copies for my Students in excess of what the law allows?

You may only legally make them under licence. A licence for reprographic reproduction (photocopying) of up to 10% or one chapter of a book, or one article from a serial publication, may be obtained from DALRO or from the publisher of the work to be copied. The photocopy of the whole books by students as a substitute for buying them is not a licensable activity. DALRO only licences extracts for internal use and in instances where the book itself would not have been bought anyway.

10.26 May I download and print out an article from the Internet and photocopy it for my class of 20 students?

You may print out a copy for your personal or private use but you may not further reproduce it for students without permission from the rights owner. Fair dealing applies in the digital as well as the analogue environment

10.26 How about newspapers and magazines

Newspapers and magazines usually administer their own reprographic reproduction rights. Your first stop should therefore be the publication itself

10.27 If the book I want to copy from is out of print, surely I can go ahead ?

No. 'Out of print' does not necessarily mean 'out of copyright'

10.28 But if a book is out of print and unavailable, the publisher is not losing any sales by my copying his book?

It is wrong to imagine that publishers and authors exploit a work only when it is in print, or that sales are the only means of exploiting a work. Long after the book is out of print it may still generate revenues for its creators through the sale of, for example, translation rights, film rights – and photocopying rights

**10.29 Since DALRO does not own copyright in the books and journals,
How can it licence the photocopying of them?**

It is not necessary to own copyright in a work in order to licence its reprographic reproduction.

Copyright consists of a whole bundle of rights: the right to reproduce a work; to publish it in a certain territory; or in a certain language; to adapt it (e.g. make a film script from a book or turn a long and complex novel into an easy reader for adults); to include it in an anthology of short stories and poems, and so on. In order to licence a photocopy, a person or entity other than the copyright owner needs only to possess the right of reproduction

10.30 How does DALRO get the right of reproduction?

It enters into agreements with authors and publishers whereby it is mandated to administer the right