

1. Background

Everyday across University of Pretoria, lecturers, staff and students make thousands of photocopies. Books, journal articles, speeches, sections from plays – they are all being copied. The copies help students learn, assist lecturers in their teaching and research, and facilitate the smooth running of the university. But is that copy you are making legal? The answer lies in the Copyright Act. Everyone who uses information by making a copy, quoting information in an assignment, copying an electronic document, etc., needs to know how to apply the copyright law.

2. Copyright Law

Copyright law provides a balance between the right of creators of copyright works to obtain a return for their efforts and the right of the public to access those works. It recognizes that certain types of knowledge should be treated as if they were private property and therefore capable of being owned. Copyright is the area of law concerning legal rights associated with intellectual creative effort or commercial reputation and goodwill. It covers a very wide area and includes literary and artistic works, films, computer programs, inventions, designs and trademarks. Therefore, copyright exists in many of the things we use on a daily basis in the library: newspapers, books, magazines, journals, photographs, maps and charts, illustrations and designs, audio cassettes, videos and films, television and radio broadcasts, computer programs and databases, etc.

2.1 What is copyright?

Copyright *is the right to copy*. It is a legal device that provides the creator of a work of art or literature, or a work that conveys information or ideas, the right to control how the work is used. It is a property right given to authors or creators of "works", e.g. literary works, artistic works, musical works, sound recordings, films and broadcasts or computer programs, to control the copying or exploitation of their work. As a property right it can be transferred by sale, gift or legacy and by licence issued in order to duplicate. Even though laws differ between countries, the general principles are the same and require the permission of the copyright owner before a work can be copied or reproduced regardless of whether that be through electronic or conventional means.

Copyright gives the owner the legal right to do certain things to the work; for example, making a copy, publishing, broadcasting or giving a public performance and making adaptations to the work. Anyone else who does any of these things without the

permission of the owner infringes copyright and may be sued by the owner for that infringement.

2.2 Who owns copyright in a work?

The author of a copyright work is generally the person who makes or creates the work, but this is not always the case. The word 'Author' is defined in the act as follows:

- In respect of a literary, musical or artistic work, to mean the person who first makes or creates the work;
- For a photograph, to mean the person who is responsible for the composition of the photograph;
- For a programme-carrying signal, to mean the first person emitting the signal to a satellite;
- For a published edition, to mean the publisher of the edition;
- For a computer program, to mean the person who exercised control over the making of the computer program.

The author or creator of the work is the owner of the copyright, unless the person is in employment, and the work is created in the course and scope of the employment, in which case the Employer holds the copyright. It is, however, possible for the creator of the work to share copyright as in joint authorship, or to contractually assign in writing, the copyright or part thereof, to a publisher or other third party, either on an outright basis or for a limited purpose or period.

2.3 Establishing copyright

For a work to qualify for copyright protection, it has to be original in the sense of not being a copy of another work, and it must exist in material form. There is no copyright in ideas because something as ethereal as an idea cannot receive legal protection, but as the idea is recorded in material form (in writing, on a canvas, as a photograph) copyright automatically arises. No formalities are required, and the work does not have to be registered.

2.4 Duration of copyright

In South Africa, copyright protection in literary, musical and artistic works lasts for the duration of the life of an author and 50 years after the author's death. In the case of works of joint or multiple authorship, protection continues until 50 years after the death of the longest surviving author. If the work has not been published before the author dies the term of copyright continues to subsist for 50 years after the end of the

year in which publication does take place. If publication never takes place, the duration of copyright is perpetual.

In many other countries, the countries of the European Union, for instance, and the United States, the duration of copyright is 70 years after the death of the author.

2.5 What does copyright protect?

Copyright provides copyright owners fairly substantial control over their work. The four basic protections are:

- The right to make copies of the work;
- The right to sell or otherwise distribute copies of the work;
- The right to prepare new works based on the protected work;
- The right to perform the protected work (such as a stage play or painting) in public.

2.6 Which works are protected by copyright

Copyright applies to all original works which have been reduced to material form and this may include any means of recording. According to Section 2(1) of the Copyright Act No. 98 of 1978, copyright protects works "fixed in any tangible medium of expression" in these categories:

- Literary works
- Musical works
- Artistic works
- Cinematograph films
- Sound recordings
- Broadcasts
- Programme-carrying signals
- Published editions
- Computer programs

2.7 What can be copied?

- A chapter from a book (never the entire book).
- An article from a periodical or newspaper.

2.8 Use of copyrighted works

Reading a book from the library, listening to music from a CD you have purchased, watching a DVD you have rented, are all legitimate personal uses of copyrighted works. Reproducing, copying, distributing, making derivative works of, publicly performing the work are not.

The university does not own copyright in all the copyrighted works its staff and students need to read. In the print world, this means the library must buy books and subscribe to journals. To fully utilize print works, the university may need to:

- Obtain permission to make photocopies for
 - Library short-loan reserves
 - Electronic reserved copies (Click-up)
 - Course packs or single item handout
- Obtain permission to digitize, display, perform or distribute print works

2.9 What are Moral rights?

The author of a work has the right to claim authorship and to object to any distortion, mutilation or other modification of the work where such action is or would be prejudicial to his or her honour or reputation. This means that the author has the right to be identified as the author (right of paternity) and the right to object to any adaptation of the work which would reflect badly on him or her (the right to integrity)

2.10 Copyright violation

Only the copyright owner may do, or authorize the doing, of the following in respect of work: reproduce it in any manner or form; publish it; perform it in public; broadcast it; transmit it in a diffusion service; or adapt it. Anyone who performs any of these actions without permission in respect of the work has infringed copyright.

2.11 Why University of Pretoria is concerned about copyright?

As both users and producers of copyrighted works, University of Pretoria rely on copyright and have an interest in fostering respect for copyright and in promoting the availability and use of copyrighted works for research and education. Copyright law increasingly is becoming the focus of significant attention in society, and consequently, university may wish to provide information about copyright law as part of their educational activities. Copyright infringement is unlawful, and the adoption of a copyright policy affords University of Pretoria an opportunity to make this point clear to students and staff

3. Electronic material and copyright

Digital technology and electronic publishing have presented a number of issues in relation to intellectual property rights. These issues face us all, whether we publish on the Web, or just view pages in our browser. It is very difficult to regulate infringements of copyright in relation to the Web, and so ensuring awareness of acceptable use of the Internet is particularly important in order to ensure breaches do not take place, and that the liability of the institution can be minimised. .

3.1 Copyright and the Internet

The Internet has made it possible for searchers to surf through millions of pages of information in a matter of seconds. People who distribute material on the Internet do so because they want its massive readership to access their work. However, by the very nature of such distribution, they can also expect that their material will be downloaded, copied and used in some way. But, information accessed on the Internet is subject to copyright law just as printed sources are.

3.1.1 Copying from the Internet

So what should you do when you find information on the Internet that you want to copy? Even before you consider downloading and printing a page, let alone copying it for any other purpose, you should attempt to locate a copyright notice or usage statement from the author or publisher associated with that page. In the case of web site this might be on the site's home page or viewed on another page via a link. If there is no statement, or the purpose for which you want the material is not listed as being permitted, then you will have to seek permission of the site owner or the author to use the material. Most sites will provide an email address for contact.

If you are copying the material because you want to include it in web site of your own, rather than copying the material, you should consider simply quoting the appropriate URL or linking to it and letting your readers consult the source material online. You should draw their attention to any copyright notice on that site, and (if possible or appropriate) direct them to the home page with the copyright and/or usage statement on it first. It is advisable to have some sort of statement on your web page saying in effect that when the user follows the link to another site, the page they are going to will be copyright of someone else and that the user should read the copyright statement on the target page.

The Internet is subject to copyright, and WEB pages are themselves literary works. In a single World Wide Web page, there can be dozens of different copyright. The consent of the copyright holder is required for each act of copying.

3.1.2 Linking

The legality of hypertext links is still developing, but although you are not actually copying material by hyper-linking you may be authorising another user to copy the material to which you are linking, especially if the owner of the linked page is unclear. Links should be considered carefully, and if possible permission to establish a link should be requested from the page or site owner/webmaster. As a general rule of thumb, if linking out to other web-pages, check that the author is identified on that work. It is also best to link to a home page, rather than deeper into a site where ownership may be unclear and navigation to the Homepage may be difficult.

3.2 Online and CD-ROM Database

The downloading of information from online databases is governed by the terms of the licence from the information provider under subscription or service contract. When signing up for access to an online database, end-users will normally sign a contract which will explicitly describe in the small print precisely what is allowed in terms of reproducing information retrieved. The printing out, copying, downloading is therefore governed by the specific condition of the licence agreement

3.2.1 Copying from an e-Journal, online database or CD-ROM

The license is usually pretty clear as to how much you can copy (or download), the purposes for which you can do that copying, and for what you can and cannot subsequently use the material. The systematic downloading of individual sections of, for example, a database in order that you can build your own equivalent is (usually) expressly forbidden in such licenses.

The terms and conditions of the license will vary from product to product, and you are strongly advised to read the relevant license or online advice about the product before attempting to copy any of the material you are accessing.

According to licence agreements which the University of Pretoria has with different databases, all staff members (academics or support staff) are not allowed to download and save a copy of .PDF file (from one of the databases. - e.g. Elsevier, Science Direct or EBSCOHOST, etc) and place this PDF file on any WEB SITE of the University (including placing on CLICK-UP or Electronic reserve) but we are allowed to incorporate links to the “excepts”

3.2.2 Scanning printed material for use electronically

Copyright Act simply refers to 'copying' and doesn't distinguish between photocopying and scanning, so the same rules apply, i.e. for copying for non-commercial research and private study the same limits apply in respect of copying and restrictions on use whether the material is being photocopied or scanned.

In particular, you should NOT scan and then make multiple printed copies or re-publish and distribute the material in electronic form (i.e. via CLICK-UP, an Intranet, or the wider Internet), **unless** you have been given permission by the copyright owner to do so.

3.3 Who owns Copyright in an electronic material?

Copyright is theoretically owned by the **creator of the work**, be it a literary work, a musical work, a dramatic work etc. But **if the creator is an employee**, and the works were created in the course of employment, the copyright will belong with the **employer**. This becomes far more problematic when there is joint ownership of works, which is of course very common with Web sites. Also ownership of copyright can, like any other property, be sold or assigned, and may therefore change hands after its initial creation.

3.4 What can you copy in an electronic environment?

There is no definitive legal position concerning electronic copying and its relation to copyright on the Internet. However, it is accepted that information on the Internet **is** protected by copyright, and a work in electronic form on your screen should not be copied any more than a printed work. Unless specific permission is given on a Web page, the work should not be copied without prior permission from the publisher of that material. You should NEVER make multiple copies of a document unless permission is given on the page(s).

When putting something on the Internet, you should check carefully that you own copyright, baring in mind that you can't always tell if copyright is breached. Do not scan pictures without checking who holds the copyright, or use video or audio clips without permission.

3.5 'Fair Use' in electronic material

The "fair use" provision of the Copyright Act 98 of 1978 allows the copying of a limited amount from a book, periodical or similar publication **for research and private study**. There is no specified amount for electronic copies however, and so as a rule

of thumb you should consider whether you would feel the amount you are copying would be acceptable if this was your own work.

3.6 Who will be liable for infringement?

Liability is extremely strict, and encouraging or authorising someone to infringe copyright, even if you didn't know, is an infringement in itself. The university may be found liable for supplying the use of the equipment.

Criminal Liability, which can attract fines and jail sentences may be a result of copyright infringements, as well as infringements of the Copyright Act.

Civil Liability may also occur as a result of copyright, particularly of obscene publications. There are two dangers with regard to civil case; with vicarious liability the employer is liable for the acts of employees carried out during employment, and with direct liability, the organisation or institution may be seen as acting as publisher, and hence held accountable.

4. Reproduction for education or classroom copying of books or periodicals (Not musical or audiovisual works)

In the course of their duties, lecturers and support staff of the University of Pretoria may wish to use photocopied materials in the classroom and for research. In many cases, photocopying can facilitate the University's missions of teaching, research, and public service. The University therefore wishes to encourage the appropriate use of such material within the spirit of the Copyright Act. Copyright is a constitutionally conceived property right, which is designed to promote the creation and dissemination of original works of authorship. That purpose is implemented by giving a copyright owner certain exclusive rights with respect to the owner's work, subject to certain limitations, in the mutual interest of the author, the owner, and the public. These rights include exclusive rights of reproduction, preparation of derivative works, distribution, and performance.

The University strongly believes that these rights are vital in maintaining a free flow of ideas in our society. A major limitation on the exclusive rights granted to the copyright owner is the doctrine of "fair use" which permits certain limited copying of copyrighted works for educational or research purposes without the permission of the copyright owner. "Fair use" is a limited exception to the exclusive use of the copyright owner, which if exceeded, can subject the one making unauthorized copies and the University to severe penalties. The wide availability of copying machines has created a situation where this exception can easily be breached.

To provide guidance to all University employees, the guidelines are to be used to determine whether copying is within the "fair use" doctrine. If the copying is not within the Guidelines, permission should be obtained from the copyright owner before any copies are made. If it is unclear whether copying would require such permission guidance should be requested from the Copyright Officer in the library - Level 4, {Tel: (012) 420-5452, e-mail: Jacob.mothutsi@up.ac.za}.

Under the "fair use" provision of the Copyright Act, you are permitted to photocopy and distribute portions of copyrighted works for educational use without securing permission from the owner or paying royalties. The law in this area is quite general, however, and it is important that certain conditions are met to insure that the copying does fall under this fair use exemption.

Situations may arise in which intended copying is not exempted under fair use. In such cases it is necessary to obtain written permission from the copyright owner before copying is done. It is the policy of the University that users secure such permission whenever it is legally required.

4.1 Single copying

Lecturers may make single copies of a chapter of a book; an article from a periodical or newspaper; a short story, essay, or a poem; a chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper to teach a class.

4.2 Multiple Copying

Multiple copies (one copy per student in a course) can be made in cases meeting the criteria of brevity, spontaneity, and cumulative effect and if each copy contains a notice of copyright

4.3 Prohibitions to single or multiple copying

You cannot copy:

- to substitute for purchase or replacement
- workbooks, exercises, standardized tests, or answer sheets
- the same item by the same instructor term after term
- if it is directed by a higher authority
- if there is a charge to students beyond the photocopy cost
- to create, replace, or substitute for anthologies, compilations, or collective works.

5. Photocopying in the library

5.1 Guidelines for photocopying in the library

The copyright law provides the conditions under which libraries may reproduce copyrighted works to satisfy the needs of users and for interlibrary loan. Such reproductions of single copies must be made without any intent of direct or indirect commercial advantage; the library collections must be open to the public for scholarly uses; and, such reproductions must include a notice of copyright.

- a) Single copies of copyrighted works may be made by libraries in order to preserve the work, to replace damaged copies, and to acquire a copy of a work that is out of print and cannot be obtained at a fair price through normal commercial channels.
- b) A library and its employees are exempt from liability for the unsupervised use of photocopiers located on the premises, provided that such equipment displays the proper copyright warning notice. The Library currently display and will continue to display the proper notices
- c) Copyrighted works may be reproduced by or for faculty members for classroom use without obtaining permission, provided that the circumstances conform to fair use.
- d) Single copies of a copyrighted work from a book or periodical become the property of the individual for the purpose of study, scholarship, or research. A single copy may be made of (not to exceed 10 percent proportionately of any given work):
 - i. a chapter from a book.
 - ii. an article from a periodical or newspaper.
 - iii. a short story, short essay, or poem, whether or not from a collective work.
 - iv. no more than one chart, graph, diagram, drawing, cartoon, or picture from a single book or periodical or newspaper.
- e) A request from another library can be supplied in the form of:
 - i. a single copy of an article from a periodical or a small part of a book, provided that the copy becomes the property of the individual requestor, not of the requesting library.
 - ii. single copies of up to five articles from a single journal title in one calendar year for materials published within five years of the date of request. five portions from a non-journal work over the copyright life of the work.

5.2 Using library's copying and printing equipment

When using the Library's or the university's photocopying and printing equipment to make copies of copyrighted works, the copying must be authorized by:

- the Copyright Act for the purpose of fair dealing or under specific exceptions set out in that Act; or
- copyright permission has been obtained from the copyright owner;

Generally, this means that, unless prior written permission has been obtained from the copyright owner, users of copiers and printers in the Library must ensure that their copying falls within the limits outlined in the Copyright Act. To assist users with determining what materials may be copied, the following guidelines may be used.

(a) Examples of copying which is generally permitted:

- single copies for private study and research purposes, of any of the following - a single article, short story, play, poem, etc from a book or periodical issue containing other works;
- an entire newspaper article or page;
- an entire chapter which is 10% or less of a book;
- works in the public domain;
- works for which the University of Pretoria owns the copyright.

(b) Examples of copying which is generally prohibited:

- copying of entire works;
- systematic, cumulative copying beyond the limits of the Copyright Act
- copying materials for sale (including cost recovery) without payment of royalties;
- copying of unpublished works, national or provincial crown publications, letters to the editor, advertisements,

5.3 Interlibrary loan

Copies of articles or documents provided through the Interlibrary Loan services are made according to the limits specified under the Copyright Act. Generally, this means an individual may request a single copy of one article from one journal issue, or more than one article provided the total number of pages does not exceed 10% of the issue. If the request exceeds these limits, and a legal copy is not commercially available, the requestor will be advised that the request cannot be filled.

When submitting a request for Interlibrary Loan, the requestor must agree to a statement indicating agreement that the materials received will be used for the purpose of research or private study only, and that the requestor has not previously received a copy of the article/document being requested.

6. Placing copies of copyrighted material on the Reserve Section (hard copies)

Copies of journal articles, book chapters and other materials placed on Reserve must also comply with the Copyright law. When submitting photocopied material to be placed on Reserve, the lecturer or course-coordinators are required to indicate the original source of the material, the author, the publisher, the year of publication, number of students registered for the course, and in some cases, the total number of pages in the original work.

6.1 Placement of material on library reserve

The library will place single and/or multiple copies of copyrighted materials received from Lecturers / Course-Coordinators or Information Specialist on the reserve section in the library under the following conditions:

- a) The lecturer / course-coordinator who place copies on reserve affirms that all copies have been made in compliance with the Copyright Act.
- b) The appropriate reserve copyright notice is displayed prominently at all locations where material is accepted for placement on reserve.
- c) Copyright clearance has been obtained for items which are copyright protected

6.2 Placement of class or lecture notes on library reserve section

If lecturer notes contain articles from books or journals that require copyright clearance, before they are placed on the reserve section, copyright permission should be obtained

6.3 Making copies for Reserve Section

The reserve section staff member will not photocopy materials for faculty or academic departments to place on reserve but it is the responsibility of faculty or departments to provide the library with these copies to be placed on the reserve section after copyright clearance has been obtained.

6.4 Disposition of reserve materials

The reserve section will, at the end of the period of reserve use, remove and place in the storage room all copies of materials that have been placed on reserve.

7. Placing copies of copyrighted material on Electronic Reserve Section

7.1 Guidelines for placing copyrighted material on electronic reserve

The library will place material requested by lecturers / Course-Coordinators or Information Specialist on electronic reserve under the following conditions:

- a) A print version of any copyrighted material to be copied or scanned for electronic reserves has been lawfully acquired by or will be purchased by the library. Library staff will scan the material for placement in the electronic reserve system after copyright clearance has been obtained. The scanned material will be available for use during the entire academic session / year (e.g., quarter or semester) in which the course is given.
- b) There will be no charge for access to electronic reserve materials; the charge for copies made by students on library printers will be the same as for all other library printing.
- c) A copyright notice will appear on screen in the online reserve system and on copies of copyrighted material made of reserve section.
- d) Copyrighted materials on reserve will be accessible by article title, book or journal title, lecturer's name, or course code. User authentication measures are implemented to limit access to students enrolled in the course for which the material is placed on reserve.
- e) A copyright notice will be attached to each copyrighted document in the electronic reserve system.

7.2 Guidelines for scanning or copying material for electronic resource

Copyrighted Materials may be scanned for placement on electronic reserve after obtaining copyright permission so long as they do not exceed the guidelines listed below:

- a) One journal or newspaper article (or 10% of the total , which ever is less)
- b) One chapter from a book (or 10% of the total , which ever is less)
- c) An excerpt from a prose work so long as the excerpt does not exceed 10% of the work.
- d) One chart, graph, diagram, drawing, cartoon, or picture per book or per journal issue

7.3 Disposition of digitised reserve materials

At the end of each academic session, all copyrighted material in the electronic reserve database will be suppressed or removed unless permission has been obtained to retain the digitized version of the material.

8. Guidelines for the compilation and duplication of classroom material

- a) Lectures are expected to adhere to copyright policy and guidelines in the duplication or printing of classroom materials (course-packs or single-item handout, readers). Lecturers should contact Copyright Officer for copyright information regarding classroom materials.
- b) Copyright Clearance
Faculty/departments should review the copyrighted content (if any) of class packets and submit the appropriate form for copyright clearance to the copyright officer to apply for copyright. The Copyright Officer must obtain written permission from the copyright holder before the material can be reproduced. Acquisition of copyright permission is often a complex and time-consuming process; therefore, adequate time should be allowed for processing. Some permissions are granted immediately; others may take up to three weeks.

9. When and how is permission requested?

Any member of staff (academic or support) who wishes to provide students with reading package (study guides) which include not only original material but also copyrighted materials (i.e. chapters from books or articles from journals), should obtain permission from copyright owners or DALRO before duplicating or including any copyrighted material as part of the reading package

The following information must accompany each application for the reprographic reproduction rights (forms are available from the Copyright Officer or electronically on the library web site)

- Title of the publication (book, journal, periodical etc..)
- Author(s) of the publication or editor(s), compiler(s), etc
- Title of the specific chapter, section or article intended to be copied
- Author(s) of the specific chapter, section or article intended to be copied
- ISBN (in the case of books) or ISSN (in the case of a journal) number of the publication

- Number of pages (as printed) intended to be copied
- Number of students registered for course
- Number of pages in the entire publication

The University uses the transactional license for reprographic. DALRO's transactional royalty rate for reprographic reproduction in public higher and further education institutions is set at R0,42 (VAT inclusive) per copy per as at 1 April 2008.

9.1 Course-packs (Study guides) or single-item handouts

These are course reading material (study guides) that are compiled for students as a course reading package. In this kind of application, the lecturers compiles class notes or lecturer notes and also includes copyrighted articles from journals or chapters from books and compiles this as a single-item handout or course-pack that is provided to students to use as reading guide. Copyright permission to duplicate and place copyrighted material should be applied for before this reading pack is duplicated and distributed to students

9.2.. Reserved material (paper copies as part of lecturer notes)

These are class notes or lecturer notes which contains copyrighted articles which are included in course reading pack compiled by lecturers as part of class notes for students to consult and usually they are placed in the reserved section of the library and also a copy is placed at Minolta Copier Centre for students to be able to make or request a duplicated copy. Copyright permission to duplicate and place copyrighted material should be applied for before this reading pack is duplicated and placed on the reserve counter for students to consult.

9.3. Electronic Reserved Copies

These are articles which are scanned and placed in the electronic reserved section and for CLICK-UP. Students can access these articles electronically and they are saved in .PDF format. It is advisable for lecturers to apply in advance as the process is long to complete in time. Copyright permission to duplicate and scan copyrighted material should be applied for before this reading pack is duplicated, scanned, linked and placed in an electronic reserved page (or CLICK-UP page) for students to access.

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

11. List of References

Dean, O, S.A Handbook of Copyright, Juta, 1988, 1 – 61, Services 8

DALRO's document entitled "Reprographic reproduction of Copyright Material for educational purposes – Pg 5

University of the Witwatersrand, Copyright Service Office, 1 Jan Smuts Avenue, Johannesburg, 2001 – www.wits.ac.za/library/services/copyright