



Education: Copyright Fundamentals

This information sheet is for people who work in educational institutions. It sets out fundamental principles in relation to the application of the *Copyright Act* to kindergartens, primary and secondary schools, universities and other educational institutions.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, archives and libraries.

We have a range of information sheets on a number of topics and publish books that analyse specific areas of the law. We can provide this information sheet in an accessible format on request. Check our website for information about our publications [here](#) and details of our seminar program [here](#).

Key Points:

- Special provisions in the *Copyright Act* allow educational institutions to use copyright material for educational purposes without permission from the copyright owner.
- The *Copyright Act* contains a statutory licence for educational institutions in Division 4 of Part IVA which is managed by Copyright Agency, Screenrights and APRA|AMCOS.
- Educational institutions covered by a remuneration notice with Copyright Agency can rely on the Statutory Education Licence to copy and communicate text and images in ways that usually require permission for educational purposes. The government has appointed Screenrights to manage the licence that allows educational institutions to copy and share broadcast content. There are also arrangements in place with APRA|AMCOS for music licences.
- In addition to the Statutory Education Licence, other provisions in the *Copyright Act* permit educational institutions to use copyright material without permission from the copyright owner. These include section 28 (playing music and showing films in class).

What is an “educational institution”?

Kindergartens, primary and secondary schools, universities and TAFE colleges are educational institutions for the purposes of the *Copyright Act* and will be covered by the Statutory Education Licence if they have provided a remuneration notice to *Copyright Agency* or *Screenrights*, respectively. A remuneration notice is an undertaking to pay for the uses made.

Other organisations that provide training (whether registered as a training organisation or not) can also be an educational institution, such as an institution with the principal function of providing courses of study or training for the teaching of English to people whose first language is not English. In some cases, they will need to follow certain procedures before they are entitled to rely on the provisions available to educational institutions in the *Copyright Act*.

There are no general exemptions from copyright law for non-profit organisations, therefore each of the educational exceptions needs to be considered individually in order to determine whether it applies to a for-profit organisation.

A cultural organisation that provides outreach programmes to primary and/or secondary schools may not be an “educational institution” for the purposes of the *Copyright Act*, but may use materials for educational purposes or provide educational instruction.

For further details see <https://www.copyright.com.au/licences-permission/educational-licences/> (in relation to text, music and notated music), www.screenrights.org/content-users/australian-services/educational-licence (in relation to broadcast material) and <http://apraamcos.com.au/music-customers/licence-types/music-in-education/> (in relation to music in education).

The Statutory Education Licence

Copying and communicating text, images and notated music

The Statutory Education Licence allows educational institutions covered by a remuneration notice with Copyright Agency to copy and communicate text, images and notated music for educational purposes up to certain limits. Not only can educational institutions make hard copies of material for their students, they can also upload the material to a secured shared drive or learning management system or email the material to students directly.

In most cases, the amount that can be copied and communicated is limited to a reasonable portion (e.g. 10% or 1 chapter) if the work is available for purchase. A specific notice must be included with digital copies and communications.

If a copy is sold, or used for a purpose other than education, it is deemed to be an infringing copy.

Copying and communicating material from television and radio

The Statutory Education Licence allows educational institutions covered by a remuneration notice with Screenrights to record from radio and TV for educational purposes and to copy and communicate those recordings. It allows for an entire program to be recorded and copied, even if you can buy that program (on DVD, for example). Certain information must be displayed on analogue recordings and copies and with communications of recorded programs.

The Statutory Education Licence only applies to audio visual material sourced from a broadcast or radio. It does not apply to purchased, rented or borrowed DVDs or videos. Nor does it apply to streaming platforms, a digital download or a podcast unless it is a program that has been shown as a free-to-air broadcast and has been made available online by the official broadcaster (e.g. on the ABC website).

If a copy is sold, or used for a purpose other than education, it is deemed to be an infringing copy.

Exceptions relevant to education

Certain provisions in the *Copyright Act* allow:

- educational institutions (without payment to copyright owners) to play music and screen films in class: section 28. This provision also allows non-infringing content to be directly streamed from websites in class unless you have contractually agreed not to do so;
- copying by students for their research or study: section 40;
- the reading or recitation in public of an extract of reasonable length from a published literary or dramatic work where sufficient acknowledgement of the work is made: section 45;
- copying by hand (e.g. on a whiteboard) in the course of educational instruction: section 200(1);
- copying and communicating in connection with exams: section 200(1A);
- the making of a record of a sound broadcast intended to be used for educational purposes if the record is not used except in the course of instruction at that place and the record is made by the authority in charge of a place of education that is not conducted for profit: section 200(2); and
- the making of a record of a sound broadcast if the record is made by the body administering an educational institution and the recording is only used for the educational purposes of that institution: section 200(2)(a).

Section 200AB: the special case or flexible dealing exception

Section 200AB allows an educational institution to use copyright material for educational instruction in certain cases where the use is not covered by other specific exceptions in the *Copyright Act*. It does not apply to a use that would be covered by the statutory licence or the other provisions relevant to educational institutions.

Section 200AB only applies if:

- the circumstances of the use amount to a special case;
- the use does not conflict with a normal exploitation of the material;
- the use does not unreasonably prejudice the legitimate interests of the owner of the copyright; and
- the copying is not made for commercial advantage or profit (cost recovery is allowed if it does not exceed the costs of the use to the charger of the fee).

Section 200AB is more complex than other exceptions in the *Copyright Act*, and you will usually need advice about whether or not it applies in a particular situation.

For more information, see our information sheet [Section 200AB: The Special Case or Flexible Dealing Exception](#)

Educational licences with the music industry collecting societies

Some educational institutions are covered by licence agreements with the music industry collecting societies. The licence agreements allow the institution to use music in ways that are not covered by the special exceptions in the *Copyright Act*.

The music industry collecting societies are APRA AMCOS (www.apraamcos.com.au), ARIA (www.aria.com.au) and PPCA (www.pcca.com.au).

OneMusic Australia has licences for dance schools, see information available at <https://onemusic.com.au/licences/>.

Primary and secondary schools

All government schools are covered by the licences set out below. Most other primary and secondary schools are also covered by these licences: check with your peak organisation if you are unsure.

- *APRA Performance Licence*: performance of music (outside a class)
- *AMCOS Print Music Licence*: making photocopies and transcriptions of print music
- *APRA AMCOS ARIA Music Recordings and Access (A/V) Licence*: recording/copying music and sound recordings.

For further details see the APRA AMCOS website: apraamcos.com.au/music-customers/licence-types/music-in-education/schools/.

Universities

In 2005, Universities Australia entered into an agreement with APRA, AMCOS, ARIA and PPCA to cover its universities for the majority of their music uses. Activities covered by the agreement include making audio and video recordings for use at university events, of university events and for educational purposes (i.e. activities associated with a particular course of study or research) and making music available via a password-protected and login-protected intranet site. Some music is excluded from the licence and there are conditions for some of the uses.

For further details contact your university's copyright officer or Universities Australia and see the APRA AMCOS website: apraamcos.com.au/music-customers/licence-types/music-in-education/universities/.

Further information and advice

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see the Legal Advice section of our website copyright.org.au.

You may also be interested in the information for schools prepared by the National Copyright Unit for schools and TAFE at smartcopying.edu.au.

APRA|AMCOS has produced the *Guide to Music Copyright for Australian Educators* which is available at http://apraamcos.com.au/media/6289/ampal-guide-to-print-music_final.pdf.

Reproducing this information sheet

Our information sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

About us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

We are advocates for the contribution of creators to Australia's culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law

and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice education and forums on Australian copyright law for content creators and consumers.

Australian Copyright Council respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to the elders and to all First Nations elders: past, present and emerging. This always was and always will be Aboriginal land.



Australian Government



The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.

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