Libraries: Introduction to Copyright

In this information sheet, we outline the special exceptions in the Copyright Act 1968 for libraries, and briefly outline licences available from Copyright Agency. The special provisions also apply to archives, and other collecting institutions such as galleries and museums.

For introductory information on copyright, see our information sheet An Introduction to Copyright in Australia.


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.

Key points

• Libraries and archives have specific exceptions that entitle them to copy and communicate material in their collections for clients and other libraries.

• Libraries and archives also have specific exceptions that enable them to use material for preservation, research, and administrative purposes.

• Libraries and archives can minimise their risk of “authorising” copyright infringement by using warning notices near copying equipment.

Special provisions for libraries and archives

There are provisions in the Copyright Act that allow staff of libraries and archives to use (eg., reproduce and communicate) copyright material in their collections for certain purposes without permission from the copyright owner. Some of these provisions were recently changed under the 2017 amendments to the Copyright Act to give libraries more flexibility. More information on the amendments may be found in our information sheet Copyright Amendment (Disability Access and Other Measures) Act 2017.

The Copyright Act does not define “library”, but various provisions suggest that a library is an entity that owns a collection of materials and provides certain services in relation to it, including providing access to the collection.

“Archives” is defined as a collection of material of historical significance or public interest, being maintained for the purpose of conserving and preserving the material. The collection must not be maintained and operated for profit. The Copyright Act notes that museums and galleries may meet the definition of “archives”.

The special provisions are available to all libraries whether or not they are conducted for profit, or are part of a profit-making enterprise – such as a library in a corporate office. However, some provisions are only available to libraries whose collections are accessible to the public, that is,
either directly or through interlibrary loan. In addition, if a library charges for supplying to a client or to another library, the charge must not exceed the cost of making and supplying the copy.

Copying for clients' research or study

Published material
Under Section 49 of the Copyright Act, a library may copy published written, artistic and musical works in its collection for people who have requested the material for their research or study. The requests must be in writing and must be accompanied by a signed declaration from the client. There are some further administrative requirements for copying published material for clients. There is no specific equivalent provision which allows copying of audiovisual material such as CDs and DVDs.

Old unpublished material
A library may copy an unpublished written, artistic or musical work whose author has been dead for more than 50 years for a client’s research or study or where a person wants to publish the work. There are equivalent provisions which allow copying of unpublished films and sound recordings made more than 50 years ago where the client wants the copy for research or study. However, there are no equivalent provisions where a client wants to publish unpublished films and sound recordings made over 50 years ago.

Manuscripts and other original items
Section 113J of the Copyright Act allows a library or archive to use original material in the collection (including audio-visual material) for the purpose of research. The research can take place either at the library or archive itself, or at another library or archive. Where a library or archive makes a research copy of original material under Section 113J, that research copy may be made available in electronic form on the library or archive’s premises for users to access. However, the library or archive must take reasonable steps to ensure that people who access the electronic research copy do not infringe copyright (eg., by enabling the person to make a copy).

Copying for other libraries
A library may copy a published written, artistic and musical work in the library’s collection for another library which has requested it for inclusion in its collection, or for another library to supply to its client for research or study. The material may be supplied by email.

There are limits on what can be copied, depending on whether the material is in hardcopy or electronic form and whether or not it is commercially available.

There is no specific equivalent provision which allows copying of audiovisual material such as CDs and DVDs.

Copying for preservation
Under Section 113H of the Copyright Act, a library or archive may use copyright material (including audio-visual material) for the purpose of preservation, if either or both of the following conditions apply:

- the library or archive holds the copyright material in its original form; and/or
• the authorised officer of the library or archive is satisfied that a preservation copy cannot be obtained in a version or format that is preservation best practice.

A library or archive can make an electronic preservation copy available for people to access, but only onsite on the collecting institution’s premises, not via an online website. The collecting institution must also take care that a person who accesses the electronic preservation copy does not infringe copyright in it (eg., by enabling a person to make a copy).

A similar provision (Section 113M) also exists for key cultural institutions to use where an authorised officer is satisfied that the material is of Australian historical or cultural significance. A collecting institution is a “key cultural institution” if the body that administers the institution:

• is established under a Commonwealth, State or Territory law, for the function of developing or maintaining the collection (eg., a State library); or
• is prescribed as a key cultural institution in the Copyright Regulations.

Administrative purposes

Section 113K of the Copyright Act allows a library or archive to use copyright material (including audio-visual material) for “administration of the collection”, specifically “purposes directly related to the care or control of the collection”. For instance, creating back-up copies, record keeping, and using collection material for training purposes are permitted, and will not infringe copyright.

“Special case” exception for maintaining or operating the library

A library can copy and communicate material for the purpose of “maintaining or operating the library … (including operating the library … to provide services of a kind usually provided by a library … )”, provided:

• 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.

The provision does not apply to an activity covered by another provision (such as supplying to a client for research or study). The material need not be in the library’s collection.

This exception is more complex than other exceptions, and you may need advice about whether it applies in a particular situation. For introductory information on this provision, see our information sheet Section 200AB: The Special Case or Flexible Dealing Exception and Section 200AB: Library FAQs. For detailed discussion of this exception, see our book “Special Case” Exception: Education, Libraries, Collections.

Parliamentary libraries and Australian Archives

Parliamentary libraries have greater privileges than other libraries: they can do anything with copyright material, for the sole purpose of assisting a Member of Parliament in his or her duties.

There are also additional provisions specifically for the National Archives of Australia.

Libraries in governments

Federal and State Government departments may use copyright material for the services of the government provided they meet certain requirements.
Libraries in educational institutions

If your library is in an educational institution, you may be able to make copies for your clients under the statutory licence for educational institutions set out in the Copyright Act which are administered by Copyright Agency and Screenrights. For more information on these schemes, see our information sheets Education: Copyright Basics and Education: Using AV Materials.

Exceptions that may be relevant to library clients: “fair dealing”

Clients of your library may be able to rely on exceptions in the Copyright Act that allow “fair dealing” with copyright material for certain purposes, in particular for research or study.

To find out about these exceptions, see our information sheets Fair Dealing: What can I use without permission and Research or Study.

Licences from Copyright Agency

Your organisation may have a licence from Copyright Agency that allows you to copy material for the purposes of the organisation. Such licences are in many ways broader than the provisions of the Copyright Act:

- Generally, the licences allow copying for the purposes of the organisation, rather than the specific purposes set out in the Copyright Act.
- Proactive copying (such as copying articles for staff current awareness) can be done under such licences.
- Generally, paperwork is simpler than under the Copyright Act: for example there is no need to get declarations in relation to each copy.
- The licences apply to staff within the organisation, not just the librarians, and not just to material in the library’s collection.

Copying is subject to broad limits, generally 10% or one chapter of a book. Some digital use is permitted. Note that unlike the library provisions of the Copyright Act, your organisation pays an annual licence fee for copying under the Copyright Agency licences. For further information, go to www.copyright.com.au.

Frequently Asked Questions

*We have unpublished material in our collection. Can we copy it for clients?*

There are a number of situations where you may be able to do this.

You may copy an unpublished written, artistic or musical work whose author has been dead for more than 50 years for a client who needs the copy for research or study. There are similar provisions for unpublished films and sound recordings made more than 50 years ago.

You may also copy a manuscript or other original items to supply to a person for research that will be carried out on the library’s premises or on the premises of another library.

Note also that a client may be able to rely on fair dealing provisions in the Copyright Act (for example, for the purposes of research and study) to copy this material themselves.
Please note that as of 1 January 2019, there will be amendments coming into effect that change how duration of copyright in unpublished works is measured. Currently, copyright in unpublished works can effectively last indefinitely, however under the amendments copyright in unpublished works will eventually expire at a certain point in time. Further information may be found in our information sheets Copyright Amendment (Disability Access and Other Measures) Act 2017 and Duration of Copyright.

**Can we supply documents in response to inter library or client loan requests that we have obtained from overseas sources?**

Once an item is in your library collection, you can deal with it as you would any item in your collection. You can supply it in response to inter library loan requests and client requests, as long as you follow the procedures set out in the Copyright Act.

**Do copyright owners or their agents have the right to inspect the library?**

Owners of copyright and their agents (such as Copyright Agency) have the right to inspect the declarations retained by the library in connection with copying under the library provisions. They must give the library at least seven days notice of their intention to inspect.

**If we copy material for our clients’ research or study, are there any copyright issues if we retain copies of that material under our email archive policy?**

While libraries are entitled to supply clients with published material they require for their research or study by methods such as email, the Act is very specific in requiring that any retained copy be destroyed “as soon as practicable after [a] reproduction is communicated”. If your library continues to supply clients under section 49 by email, it would technically need to alter its email archiving policy so that copies of third-party material (such as articles and chapters of books) are not retained as part of the archive. Alternatively, it would need to look at supplying copies of material to clients by a different method – for example, in hardcopy.

**We are a corporate library. What can we copy for our clients?**

You will be able to copy material in which the corporation owns copyright – such as archival material and reports published by the corporation. If you want to copy third party copyright material that is in the collection, you can use the provisions outlined in this information sheet. However, if you want to engage in interlibrary supply, you will need to make your collection, or part of your collection, available “to the public”. Most corporate libraries do this by participating in interlibrary loan schemes.

**Can we copy covers of AV items so people can see what we have in our collection?**

You can make these copies under the “administrative purpose” provision, and also use them on your library intranet for purposes directly related to the care and control of the collection, for example, cataloguing.

**If we have digitised something under the preservation exception, do we need to destroy the original?**

There is no requirement to destroy original copies once you have relied on the “administrative purposes” provision.
Can we give clients online access to newspaper clippings we have scanned into our database under the preservation exception?

Anything that has been digitised under the preservation or research exceptions can be made available for access by the public, but only onsite at the library or archive premises, and you must take reasonable steps to ensure that people accessing those copies can’t infringe copyright. For example, any computer terminal on which people can access a research copy or preservation copy shouldn’t be connected to a printer or have open USB ports by which a user could make or download a copy, and the computer should not be connected to the open internet.

Copies of in-copyright material made under the preservation, research, or administration purpose cannot be uploaded to your website to be accessed on the open internet.

Can we charge borrowers a deposit before they borrow material?

Yes, provided that, for sound recordings and items containing computer programs, the deposit is aimed at ensuring the return of the item, and is returned to the borrower upon its safe return.

Is a librarian responsible for infringements by library clients?

A librarian may infringe copyright if he or she authorises a client to make an infringing copy. Generally, a librarian will not be liable for authorising the making of infringing copies on a photocopier in the library if the prescribed warning notice is placed near the machine. It is also a good idea to have similar notices near other copying equipment such as computers.

Our information sheet Notices on Photocopiers & Other Copying Equipment contains these notices.

Can a library copy material for people with a disability?

Libraries may rely upon the library copying provisions in the Copyright Act to copy on behalf of clients, whether or not they have a disability. Copies made under these provisions may be adapted to the needs of a client with a disability, for example by being made in large print.

Libraries can rely on the specific provisions relating to people with a disability if they are libraries within an educational institution or a disability organisation. If not, they may request an institution assisting people with a disability to make a copy under the relevant provisions; the library may then pass that copy on to the person with the disability.

Libraries may also make copies for people with disabilities under the fair dealing exception for purpose of access by persons with a disability. See our information sheet Disabilities – Copyright Provisions.

Can we scan or copy book covers to post into a library blog or into our online catalogue?

There is no copyright issue if the cover does not include any copyright works. However, most covers include “artistic works” (such as illustrations or photos) and many also include “literary works” (such as abstracts), and these can be protected by copyright.

In August 2016, the Australian Publisher’s Association (APA) announced its policy that it is in the public interest that libraries be able to reproduce book covers to promote library programs and collections, and to connect readers with books and authors. The APA has therefore agreed with the Australian Library and Information Association (ALIA) that APA members allow libraries to use book covers for promotional purposes, such as posters, library displays, catalogues, bookmarks, other marketing materials, and also websites and social media posts, without needing to seek prior permission or make payments to copyright owners.
Further information on this question may be found in our information sheet Educational Institutions & Libraries: Using Book Covers.

Further information & assistance

For further information about copyright, and about our other publications and training program, see our website (copyright.org.au).

We have a number of sample declarations and notices for libraries available in our information sheets Libraries: Declarations & Notices and Notices on Photocopiers & Other Copyright Equipment.

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference.

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.

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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