

## Division of Library Services Copyright Guidelines for Library Staff

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These copyright guidelines are for CSU library staff. They outline what copying can be done by staff employed by the Division of Library Services. The guidelines are not relevant to library clients because they are likely to be copying for different purposes. If library staff are unclear about any of the material or library clients have questions about copyright, contact the Copyright Coordinator, Kerry Vaughan, [copyright@csu.edu.au](mailto:copyright@csu.edu.au) or phone (02) 6933 4272.

### Further Information:

- [Copyright @ CSU libguide](#)
- [CSU Copyright website](#)
- [Copyright Essentials](#)

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# 1. What is copyright?

Copyright is a set of exclusive rights granted to creators of original works. As soon as ideas or thoughts are made into material form such as written, audio-visual recording, painting, photograph etc. they are referred to as works at which point they are protected by Copyright Law. There is no need to register copyright in Australia, protection is automatic.

The **Australian [Copyright Act 1968](#)** gives creators of works a set of exclusive rights, to:

- reproduce their works in material form,
- publish the works
- perform the works in public,
- communicate the works to the public, and
- make, reproduce, publish, perform or communicate an adaptation of their work.

Although Copyright Laws may vary in different countries, the basic principle of these laws is to protect the rights of the creator regardless of their country of origin. The laws of each country apply to copying and communication done in that country. CSU is committed to observing Copyright Law and upholding the rights of creators and users.

When making a copy of someone else's work, you must consider:

- the source – is it legitimate? Has copy protection been applied? What are the terms & conditions?
- your purpose – own use, for someone else, commercial benefit
- what you are doing with the copy – making it available to others, commercial use, own use or copying on behalf of someone else

## **Exceptions:**

The Act lists exceptions where works may be copied under certain circumstances provided the conditions are met. There are provisions for individuals, libraries and archives, the sight impaired and educational purposes that could be relevant to your work at the library.

## **Commercial Licences:**

CSU purchases access to digital material under licence such as full-text journal and audiovisual databases, and electronic books. Access to and use of these materials is governed by the licence terms and conditions. Use of these materials does not rely on the Act. Contact the Team Manager, Electronic Resources and Acquisitions, Deidre Boland, for further information.

**Library policies and procedures** must be followed when making copies for clients.

**Note:** you should not make copies from 'infringing' (illegal) copies of works. Infringing copies are those that are made without the permission of the copyright owner and not made under one of the provisions in the Act that allows copies to be made or communicated.

## 2. Library provisions in the Act

### 2.1 Copying for clients (s49)

CSU staff and students, can make a request to the library to copy material for their **research or study**. They must provide a signed declaration (electronic or print) stating that the copy is required for the purpose of research or study. Clients can request a copy in Primo Search by completing a digitisation request, the Copyright Declaration is displayed on the request form.

#### How much can be copied?

A reasonable portion can be copied which is generally considered to be:

- one chapter or up to 10% from a book, more if the book is not available in a reasonable time at an ordinary commercial price
- one article per issue of a journal, more if they are for the same course of study

Use the last numbered page of a book as the total number of pages to calculate 10%
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#### Copying indexes or bibliographies

If copying a chapter to fill a request, the indexes and bibliographies can be copied provided they are within the 10% limit for the text unless the text is out of print in which case as much as is required may be copied.

#### Commercial availability test

In order to copy more than a reasonable portion of a book, the library staff must be satisfied, after conducting a reasonable investigation that the book cannot be purchased in a reasonable time at an ordinary commercial price. Availability of second hand copies is not relevant. To check availability contact the CSU Library Acquisitions team at [acq@csu.edu.au](mailto:acq@csu.edu.au). A copy of the investigation (email) should be kept with the request. The commercial availability test does not apply to back issues of journals.

#### Copyright notice

When copying works to fill a request for staff or students, the appropriate copyright notice must be included at the beginning of the scan (49(7A) Regulations).

#### Record keeping

All signed declarations must be kept for a period of **4 years** in chronological order in print or electronic format. Declarations must be made available for inspection if requested.

Temporary scans should be deleted within a reasonable time of being sent.
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### 2.2 Inter Library Loans (ILLs)

#### Requests for copies of material from other libraries

CSU libraries can request copies from other libraries for works not held at CSU;

- to include the reproduction in the collection
- to fill a request for the purposes of research or study (s49)
- to fill a request for educational purposes i.e. eReserve (Part VB CA licence)

### **Record keeping**

Records of all requests and Copyright Declarations made for the purposes of s. 50 by CSU must be kept in chronological order for a period of **4 years** in print or electronically, and made available for inspection if requested.

It is the responsibility of the requesting library to check copyright compliance and copy limits

### **Copying for other libraries**

CSU libraries receive requests from other libraries to supply copies of the following;

- one article contained in a periodical
- more than one article if they are for the same research or course of study
- a reasonable portion of a published work (1 chapter or up to 10%)
- more than a reasonable portion of a published work if it is not available for purchase

The library making the reproduction must stamp it with the date copied and supplying library's name. **There is no requirement under the Act for the supplying library to keep a record of the reproduction.** These conditions apply to copies from print resources, not electronic database articles.

Charges for ILLs must not exceed the cost of making and supplying the copy.

### **Database articles and eBooks**

Access to ejournals and eBooks is purchased under contract. Individual contracts will specify whether material can be supplied from databases to fill ILL requests and how they can be supplied. Some databases may state that supply must only be in print which means the articles cannot be supplied in digital format or scanned. Contact the Team Manager, Electronic Resources and Acquisitions or the ILLs staff for more information.

As soon as practical after a scan of a work is sent to the requesting library, it should be deleted.

## **2.3 Unpublished works & thesis**

### **Reproducing and communicating unpublished works by libraries or archives**

Unpublished works are those that have not been printed for distribution or made available to the public. They can include personal records, manuscripts, letters and theses.

If the author of a literary, dramatic or musical (print) work died more than 50 years ago, the library can make a copy if requested for the purpose of research or study or with a view to publishing the work. If the creator is still living, or died less than 50 years ago, then the written permission of the creator or their beneficiary must be sought before copying. [[s.51](#)]

Older **unpublished thesis** or other similar literary work kept in the CSU collections may be copied and communicated if required for the purpose of research or study. Theses completed recently are available in the University repository (CSU Research Output, CRO) and can be accessed electronically provided no embargo exists.

Works held in an archive may include original unpublished and published works. Each item will need to be considered separately i.e. contact acquisitions staff at [acq@csu.edu.au](mailto:acq@csu.edu.au) to conduct a commercial availability test.

## 2.4 Audiovisual (AV) material held in the library

There are two main types of AV material held in the CSU library collections, Commercial and Screenrights off-air television and radio recordings.

Commercial AV material can be borrowed by all library users, whereas Screenrights broadcast recordings can only be borrowed by CSU staff and students (as indicated on the label).

### Copying commercial AV material

As a general rule commercial AV material cannot be copied by libraries, although there may be circumstances where format shifting is required, e.g. from video (VHS) to DVD. Although there is no specific exception in the Act that allows libraries to copy audio or AV material for users, there is a Special Case Exception (s.200AB) that may allow AV material and other works to be copied depending on the circumstances, which include:

- no other exception exists to make the copy
- for the purpose of maintaining or operating the library
- the use is non-commercial
- use does not conflict with normal exploitation – can a copy be purchased?
- use must be a special case, it has a specific purpose such as teaching
- under no circumstances can Technological Protection Measures (copy security) be broken to make a copy of a commercial DVD

Before making copies under this provision, contact the Copyright Coordinator. A notice should be attached stating under which provision it has been copied.

### Copying Screenrights (Part VA) broadcast recordings

Libraries at institutions that hold a current Screenrights licence (Part VA) may request a copy of a broadcast recording. The holding library can make a copy of the recording and send the recording to the requesting library. All Australian Universities hold a Screenrights licence as do most TAFE and schools. These recordings cannot be sent or copied for libraries that do not hold a Screenrights licence such as public libraries.

## 2.5 Maintaining the collection

There are specific exceptions in the Act that allow libraries and archives to make replacement copies of material in the collection that has been lost, stolen, damaged or destroyed if replacement copies cannot be purchased within a reasonable time at an ordinary commercial price. S.51A deals with print items, s.110B deals with AV material. Generally the loss or damage has to take place before the replacement or repairs can be requested. It is possible to order a copy of an item from another library under these exceptions.

An item in the library's collection may be copied for **administrative purposes** (s.51A(2)), this can include copying for library staff training purposes. The purpose must be directly related to the care and control of the collection.

There are sections in the Act that prevent or control the importation of material such as books, DVDs and music. It does not prevent libraries from importing authorised (non-infringing) copies of material from international suppliers. ([s.44A](#)(4))

### **Special case exception - s200AB**

This exception may allow libraries to copy material provided there is a specific purpose, only where other exceptions cannot be applied, the material is not available commercially and copy security is not broken. More information can be found in the [Section 200AB Flexible Dealing Handbook Online](#).

## 2.6 Students with a disability

In the first instance students with a disability making a request for material that is required in a different format or requesting more than the 'fair dealing' limits would allow should be referred to the [CSU Disability Service](#). How much can be copied for a student with a disability will depend on whether that material is available in the required format. The Disability Office has access to the Copyright Agency (CA) Master Copy Service and publishers and can ascertain whether the material is available in the required format. Students with a disability should be registered with the disability service.

There are several provisions in the Act that libraries can rely on to copy material on behalf of students with a disability. These provisions allow the copying of print as well as AV material. Copies can be converted to a format that meets the needs of the client, such as large print, braille or OCR'ed where libraries have the facilities to do so.

## **Part VB - CA licence**

CSU can rely on the CA licence to copy or scan material for students with a disability within limits. This material can be converted to the required format. The Part VB Communication notice should be displayed.

### **S.200AB - Special Case Copying**

Where no other provision or licence can be applied, university libraries can copy material on behalf of students with a disability under the s.200AB provision. The use of this provision relies on the material not being commercially available in the required format. While there is no requirement for a notice under this provision, it is a good idea to include a statement such as: ***"This material has been reproduced on behalf of Charles Sturt University pursuant to s.200AB of the Copyright Act 1968. No further reproduction of this material may be made."***

## **3. Library copyright signage**

### **Infringing copies made on machines installed in libraries and archives -**

#### **S.104B**

Libraries can be held liable for the making of infringing copies if their staff are perceived to 'authorise' someone else, to infringe copyright. For example the University of New South Wales was held liable for 'authorising' a copyright infringement by providing photocopiers for clients without adequate supervision or warnings to users about copyright. For this reason libraries must place copyright warning notices near any equipment that could be used to reproduce copyright works to remind users of their obligations under the Copyright Act. These notices must be placed so that they can be viewed from any equipment in the library that can be used to make copies of any kind.

## **4. Library staff responsibilities**

If library staff suspect that clients may be infringing copyright, such as copying a whole book, they have a responsibility to bring the notices placed near copiers to the client's attention. If you are uncertain, bring the matter to the attention of the Copyright Coordinator.

### **What to do if asked about copyright**

If a student wants to know what they can copy, direct them to the [CSU Copyright for Students](#), or Copyright Coordinator if the site doesn't answer the question. Students can rely on the Fair Dealing provisions to copy material for their own research or study.

Staff who provide misleading information may be seen to 'authorise' infringement which is an offence under the Act.

## 5. Music Licence

CSU holds a commercial [music licence](#) that allows music to be played at University events, used for educational purposes, music on hold and play music in the workplace. CSU has to report any music that is being streamed online in reliance on this licence in October each year. There are notice, access and marking requirements that must be met by the University. This licence does not extend to library staff copying music for clients.

## 6. Statutory licenses – Reserve, eReserve & Broadcast recordings

### Copying and communicating works – Part VB licence

CSU can rely on the Part VB statutory provisions of the Act to provide material copied from print and digital sources (not database) to students for educational purposes. The licence is administered by CA. This licence allows the University to copy and/or communicate copyright material without having to approach individual copyright owners for permission provided the terms, conditions and limits are met. The University will be surveyed about every 4-5 years for a period of 12 weeks to gather data about what is copied under this licence that will be used to distribute licence fees. This survey will involve the library. Staff will be required to fill in forms for copying done on library MFD's (printer/scanners), not copying done for students. The eReserve spreadsheet and data from Equella will be used to capture communication data for the survey.

### Electronic Reserve (eReserve)

**EReserve** is a collection of book chapters and journal articles that have been digitised from print and is managed by the Library for the whole University. The collection only holds material not available electronically. EReserve relies on the Part VB (CA) licence so conditions and limits apply. Materials made available in eReserve are communicated electronically via Primo Search. Academics can link to eReserve articles from their subject *Interact2* site. For more information read [Online Readings Support](#). Anything that is available electronically (web, database, ebook) should be accessed via a link.

#### The Part VB limits are:

- 10% of the number of pages in a book, or one chapter, whichever is greater, more if the book is not available in a reasonable time at a normal commercial price
- one article per issue of a journal, more than one if they are on the same subject matter

These limits apply to the University as a whole. Only one reasonable portion can be communicated online across the university at any one time. To ensure that limits are observed, the Library manages a database and the loading of materials being communicated. The last numbered page in the book can be taken as the total number of pages. 10% can be made up from different sections of the book, not exceeding 10% in total, but it can only be communicated in one file. If subsequent requests come through for different chapters from the same text which are in excess of the limits the extra material can be emailed to students by the eReserve Librarian provided it is for a different subject and within the limit for that subject.



Where it can be established, after reasonable investigation, that a text is not able to be purchased in a reasonable time at a normal commercial price the whole text can be copied and communicated. The Acquisitions Team can check availability. Keep evidence on file, and check again before reloading material as a new edition of the text or an electronic copy may become available. This condition does not apply to periodical publications.

If CSU does not hold the material it can be requested through ILL to place on eReserve. The Part VB copyright notice must be viewed before the article and access limited to CSU staff and students.

## **7. Online & Internet**

All material on the internet is protected by copyright. Unless the website states otherwise, to copy and then communicate third party material including images, you must get written permission and abide by the permission conditions.

You can provide hyperlinks to web material, but should not use copied material from third party sources, unless permission has been granted for its uses.

Attribution alone is not enough as it does not mean you have got the permission to use their material.

## **8. Open Access Resources**

Open Access resources can be accessed by anyone. Content can also be reused subject to license conditions. These resources are generally available on the internet and you can download or print them. Works in which the copyright protection period has expired are in public domain and this material can be copied freely.

Recognise the distinction between open access resources and material that has been illegally published via the internet without permission from the creator or copyright holder.

## 9. Library Copyright FAQ's

### **Can students request a different chapter from the same book each week?**

*No, students can only request one chapter or up to 10% from a book unless it is not available in a reasonable time at a normal commercial price. The whole book can be posted to the student if they require more than 10%.*

### **Can students request a chapter (or 10%) from a book if there is already another chapter from the same book on eReserve?**

*Yes, the Library relies on s49 of the Act to copy material for staff and students for their own research and study. CSU uses Part VB CA licence to communicate resources on eReserve. There is no issue here as the licence agreements are treated separately to the provisions of the Act.*

### **I have noticed a student appears to be copying a whole book at the copier, what should I do?**

*The student may be infringing copyright. You should point out the copyright notices near copiers, and if they refuse to take notice refer the matter to the Copyright Coordinator.*

### **A student has asked me how much they can copy. What should I say?**

*It is OK to let them know that they can copy 10% or one chapter from a book or an article from a journal. For further clarification of what can be copied students should be referred to the [CSU Copyright website](#) or the Copyright Coordinator.*

### **Can a library that holds a thesis provide a requesting library with a copy of that thesis for inclusion in the requesting library's collection?**

*Yes, from a copyright perspective this can be done (s.135ZL). The whole thesis can be copied unless it has been separately published and can be purchased in a reasonable time at an ordinary commercial price, in which case no more than 10% can be copied.*

### **Can the library provide students with print copies of eReserve articles?**

*Yes, if students are unable to access or download their eReserve readings for some reason, library staff can print and post copies on request. There are no record keeping requirements.*

## Appendix A: Library notices

### 1. Notice should be scanned to library users making a request

Commonwealth of Australia

*Copyright Act 1968*

#### **Notice for paragraph 49 (7A) (c) of the *Copyright Act 1968***

##### **Warning**

This material has been provided to you under section 49 of the *Copyright Act 1968* (the **Act**) for the purposes of research or study. The contents of the material may be subject to copyright protection under the Act.

Further dealings by you with this material may be a copyright infringement. To determine whether such a communication would be an infringement, it is necessary to have regard to the criteria set out in Division 3 of Part III of the Act.

### 2. Notice to be displayed near equipment that can copy audio-visual items

Commonwealth of Australia

*Copyright Act 1968*

#### **Notice about the copying of audio-visual items**

##### **Warning**

Copyright owners are entitled to take legal action against persons who infringe their copyright. Unless otherwise permitted by the *Copyright Act 1968* (the **Act**), unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item.

It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act.

Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

### 3. Notice to be displayed near copying equipment in libraries

Commonwealth of Australia

*Copyright Act 1968*

#### **Notice about the reproduction of works and the copying of published editions**

##### **Warning**

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- a reproduction that is a fair dealing under the *Copyright Act 1968* (the **Act**), including a fair dealing for the purposes of research or study; or
- a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for research or study, of one or more articles in a periodical publication for the same research or same course of study or, for any other work, of a reasonable portion of a work.

For a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

For a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.