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Education Licence B: Statutory Text and Artistic Licence

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Statutory Text and Artistic Licence for Educational Copying of Literary, Dramatic, Musical and Artistic Works

The Copyright Act 1968 (Copyright Act) had been recently amended to incorporate the provisions of the Copyright Amendment (Disability and other Measures) Act 2017. This amending legislation repeals the Statutory Broadcast Licence (Part VA) and Statutory Text and Artistic Licence (Part VB) removing the copying limits and record keeping requirements, and replacing them with a new Section 113P. These amendments simplify the operation of the educational statutory licences and provide more flexibility for educational institutions and collecting societies to negotiate agreed terms. At this stage, we advise schools and TAFEs to continue to apply the existing copying limits, and to note the recommended labelling requirements of the Statutory Text and Artistic Licence until new copying limits or other requirements are agreed by Schools/TAFEs and Copyright Agency. Updates will be provided in due course.

Introduction

The [Statutory Text and Artistic Licence](#) set out in s113P of the Copyright Act allows schools and TAFE institutes to make multiple copies of literary, dramatic, musical and artistic works for educational purposes. The relevant governing body of the school or TAFE, (eg the relevant state Department of Education, Catholic Diocese, independent school TAFE Institute) pays the Licence fee on behalf of their sector to the [Copyright Agency Limited \(CA\)](#) which is the collecting society that administers the [Statutory Text and Artistic Licence](#).

All government schools and most non-government schools and TAFE institutes are covered by the [Statutory Text and Artistic Licence](#).

See [1.11: Statutory and Voluntary Licences for further information on Collecting Societies](#)

What does the [Statutory Text and Artistic Licence](#) cover?

The licence allows schools and TAFE institutes to copy and communicate text and artistic works in both hard copy and electronic form.

'Text material' includes literary, dramatic and musical works, and 'artistic works' include paintings, photos, drawings, even moulds or casts for sculptures. For information about how the copyright law characterises different types of material, please see the Smartcopying website at: [www.smartcopying.edu.au/copyright-guidelines/copyright---a-general-overview/1-3-what-is-protected-\(types-of-works\)](http://www.smartcopying.edu.au/copyright-guidelines/copyright---a-general-overview/1-3-what-is-protected-(types-of-works))

Note musical works in this context is sheet music. Most schools rely on the AMCOS Licence rather than the statutory Text and Artistic Licence to copy sheet Music see link ([http://www.smartcopying.edu.au/copyright-guidelines/education-licences-\(statutory-and-voluntary-licences\)/education-licence-d-amcos-licence](http://www.smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-and-voluntary-licences)/education-licence-d-amcos-licence))

There are rules about how much of a text or artistic work a school/TAFE can copy and how it can be communicated.

What is not covered by the [Statutory Text and Artistic Licence](#)?

The [Statutory licence](#) does not cover:

- copying of computer programs
- copying or communicating text or [artistic works](#) for uses other than educational use
- copying or communicating more than allowed under the [licence](#) rules
- [reproduction](#) or [communication](#) of [sound recordings](#), [audio-visual material](#) or [webcast](#) or net casts (web radio or web TV).

What is a copy?

A copy for the purpose of the Statutory Text and Artistic Licence is a reproduction of a literary, dramatic, musical or artistic works and includes printing, photocopying, scanning, downloading/saving a copy to a personal computer or device or personal cloud space and saving a copy in a digital format.

What is a communication?

A communication under of the Statutory Text and Artistic licence involves making copyright material available online or electronically transmitting copyright material.

'Making material available online' can include uploading material to a digital space for student access and use via password protected access such as:

- a shared drive/intranet (eg Microsoft 365); or
- content or learning management systems (eg Moodle, Blackboard, Brightspace or Equella); or
- to a closed class area on an education platform (eg Edmodo, Verso, Google Classroom or iTunes U).

'Electronic transmission' includes emailing, streaming or using an electronic reticulation system to share material (eg, libraries might have an electronic delivery system to transmit material centrally).

A communication **does not include**:

- Displaying a website live in class for students to read
- Bookmarking and sharing links to online articles or resources
- Emailing links to online articles and resources

These activities are not copyright activities and do not require a licence or permission.

Copying and communication must be for educational purposes

The Statutory Text and Artistic Licence allows educational institutions to copy for the educational purposes of the institution. Educational purpose includes copies and communications of works made for:

- teaching purposes;
- used as part of a course of study;
- retained for library use as a teaching resource.

Copying Rules under the Statutory Text and Artistic Licence

There are agreed rules about how much of a text or artistic work an educational institute can copy, and how it can be [communicated](#) under the Statutory Text and Artistic Licence. Different rules apply depending on whether you are copying material from a hard copy (book newspaper or magazine) or an electronic copy (website, CD Rom or e-book)

Copying Text Works

Under the statutory licence a [reasonable portion](#) of a work can be copied for educational purposes.

The tables below set out the most common types of works copied and what is

considered to be a reasonable portion in each circumstance.

Copying Artistic Works

Under the statutory licence an entire artistic work can be copied in certain circumstances. The tables below provide more information on what can be copied and when.

The Hard Copying Rules

The hard copying rules apply to material in printed form (eg books, printed newspapers, magazines, journals or periodicals).

Hard Copy Work	Amount That Can be Copied
Books	10% of the pages or 1 chapter
Newspapers, magazines, journal	1 article in a journal, more than 1 if on the same subject matter
Anthologies	15 pages e.g one short story
Ebooks	10% of the pages or 1 chapter
Artistic Works (photographs, cartoons, diagrams and drawings) <u>with accompanying text</u>	The whole of the artistic work
Artistic Works <u>with no accompanying text</u> (eg a slide, photograph of a painting)	The whole of the work if it has not been <u>separately published</u> or if published if it is not available within 30 days at an ordinary commercial price
Technical manuals	10% of the pages or 1 chapter
Plays, screenplays	10% of the pages
Sheet music	10% of the pages

Electronic Copying Rules (The EUS)

The electronic copying rules apply to text and artistic works material in electronic form (eg on-line newspapers, e-books, CD-Roms and [web pages](#)) and is referred to as the EUS (Electronic Use Scheme).

Electronic Work	Amount That Can be Copied
CD-Roms	10% of the words
Website	10% of the words
Online-publications (e-zines, on-line newspapers)	1 article per day or per edition, two or more may be copied if on the same subject matter.
Artistic Works (digital photographs, cartoons, diagrams and drawings)	The whole of the artistic work
Digital Anthology	If paginated and more than 200 pages, one work of up to 15 pages. Otherwise, no more than 10 per cent of the words of the anthology.

Other print material on the internet (screen plays, plays)	10% of the words
Electronic versions of sheet music	10% of the words or 1 chapter

Insubstantial copying

Schools/TAFE institutes are allowed to [copy](#) an insubstantial part of a text [work](#).

For [hard copy works](#), an insubstantial part is:

- less than the whole [work](#) where the [work](#) is 2 or fewer pages
- up to 2 pages where the [work](#) is between 2 and 200 pages
- more than 2 pages but not more than 1% of the total number of pages where the [work](#) exceeds 200 pages.

For [Electronic Works](#) an insubstantial part is:

- for paginated [works](#) of more than 200 pages, up to two pages
- for non-paginated [works](#), up to 1% of the total number of words in the [work](#).

Note: any insubstantial copying from text [works](#) in electronic form must be consecutive (eg pages 2 and 3, or paragraphs 1 to 3 of a [web page](#)).

There is no requirement to pay for copying of an insubstantial part, or to keep records of this type of copying. However, [schools/TAFE](#) institutes are not allowed to [copy](#) another insubstantial part of the same [work](#) within 14 days of making the same [copy](#).

Copying a whole work

Schools/TAFE institutes can copy a whole work eg a text book, a teacher's resource or a student activity book if:

- the whole of the [work](#) has not been [separately published](#) (including unpublished [works](#))
- the whole of the [work](#) is not available in [hard copy](#) form within a [reasonable time](#) at an [ordinary commercial price](#)
- the [work](#) is out of copyright (eg old [works](#) by Jane Austen or Shakespeare).

As a general guide it is recommended that a 'reasonable time' is six months for textbooks and thirty days for other material

Copying a whole work on the Internet

Schools/TAFE institutes can [copy](#) a whole [work](#) on the Internet if it has not been [separately published](#) and is not available within a [reasonable time](#) at an [ordinary commercial price](#).

Internet Print World Analogy Table

Agreed [copying limits](#) for the [Statutory Text and Artistic Licence](#) set different limits depending on whether the source material is an article in a periodical publication, an anthology or some other general type of [work](#) (eg a book). A table has been prepared which outlines how these categories apply to some common internet publications it can be found by [here](#) - [Internet Print World Analogy Table](#)

Access in Digital Teaching Environment

A digital teaching environment ([DTE](#)) is an online environment with features that enable students and teachers to store and engage with course content, manage course work, and explore material. Examples used in TAFE include:

- learning management systems (such as Moodle, Blackboard, BrightDTE, SIMON, Schoology, Schoolbox, or Infrastructure Canvas);
- learning content management systems (such as EQUILLA);
- closed class areas on an education platform (Edmodo, Verso, Google Classroom or iTunesU);
- password protected wikis;
- portals;
- interactive whiteboard galleries and media libraries; and

- password protected share drives.

Teachers may copy and communicate literary, dramatic, musical works and artistic works into a [DTE](#) –subject to:

- copying limits (see above);
- restricting access to teachers and student; and
- [simultaneous storage rule](#).

Restricting access to teachers and students

Access to material copied and communicated under the [Statutory Text and Artistic Licence](#) must be restricted (eg by use of a password) to teachers and students. You must ensure that the material is not able to be accessed by the general public. It is, however, permissible to allow parents to have access to enable them to assist students with homework etc. Access to these resources should be limited to the minimum required number of students and staff.

Simultaneous Storage Rule

Where 10% or one chapter of a literary, dramatic or musical work is available on a [DTE](#), no other part of that work can be made available on the [DTE](#) at the same time. Therefore, if Teacher 'A' places 10% of a book on a [DTE](#) for her/his class, and Teacher 'B' places another 10% of the same book on the [DTE](#) at the same time, this would breach the simultaneous storage rule under the Statutory Text and Artistic Licence.

A practical way of managing the simultaneous storage rule is to, where possible, limit access to the material to those students who need to view the material for classroom and/or homework exercises, and to delete or archive the material once it is no longer needed.

For example, if Teacher 'A' places one chapter of a book on the institute's learning management system for a classroom exercise with her ESL students, access to this chapter should be limited to those ESL students only, and not all of the institute's students, and should be deleted once it is no longer needed.

Clearing out material is a great way to ensure compliance with this rule, this can be done by either deleting the content when it is no longer required, saving to a private drive or by archiving it on an online content repository or LMS when it is no longer required.

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