1.13 Copyright exceptions

The Copyright Act provides a series of exceptions which allow schools and TAFE institutes to use copyright material without permission. These include:

- Fair dealing and other statutory exceptions
- Flexible dealing
- Educational exceptions
- Other exceptions
- Statutory Licence schemes

a. Fair Dealing

Teachers and students can copy and communicate limited amounts of works under “fair dealing”. No permission is required or payment made to the copyright owner if the use is fair and for the purpose of:

- research or study
- criticism or review
- reporting the news
- parody or satire

If a work is protected by a technological protection measure, you may not be able to use the fair dealing exceptions.

See 1.15: Liability of Schools and Individuals for Copyright Infringement for information on offences relating to copyright protection technologies.

i. Research or study

In general, students and teachers can rely on fair dealing when using extracts from copyright material as part of their own research or study for a class or particular course of instruction. The person undertaking the study and research (for example, the school student) must be the person doing the copying for it to be considered a “fair dealing”.

A student/teacher may copy and communicate parts, and in some cases the whole, of a:

- literary, dramatic, musical or artistic work
- sound or television broadcast
- film, video /DVD
- sound recording
- multimedia product
- computer program
- database

for free for the purposes of research or study. Teachers/students are allowed to copy as a fair dealing for research or study:

- a 'reasonable portion' of a published edition of a literary, dramatic or musical work.
- whole or part of an article in a periodical.
- more than one article in a periodical if you are copying it for different research or a different course of instruction.
Teachers/students may copy or communicate more than a reasonable portion of a literary, musical or dramatic work or more than one article for the same research if this is fair.

You can decide if your copying or communication is fair by considering the following factors:

- the purpose and character of the dealing
- the nature of the work
- the possibility of obtaining the work within a reasonable time at an ordinary commercial price
- the effect of the dealing upon the potential market for, or value of the work
- in the case where only the part of the work is copied - the amount and substantiality of the part copied in relation to the whole work

Teachers may not use fair dealing to make multiple copies of material for their students’ research or study. This is covered by the Statutory Licence schemes.

External Students

External students who are enrolled in an educational institution can rely on the defence of fair dealing for research or study, provided that the copying is related to an approved course of study or research.

ii. Criticism or review

A student/teacher may copy or communicate parts of a literary, dramatic, musical and artistic work for the purpose of criticism and review (eg where a student or teacher is reviewing a book, CD or film for a student newspaper, teacher’s journal or a website).

The source work, the copyright owner and the author (if different from the copyright owner) must be sufficiently acknowledged in the publication.

Sufficient acknowledgment must be made of the source material, the copyright owner, the author (if different) and the title of the work being copied (if different from the copyright owner).

The same exception applies for audio-visual material (sound recordings, films and broadcasts).

iii. Reporting the news

A student/teacher may copy or communicate parts of a literary, dramatic, musical and artistic work for the purpose of reporting news that appears in the print, radio or television media.

Sufficient acknowledgment must be made of the copyright owner and the author of the work.

The same exception applies for the use of audio-visual material (sound recordings, films and broadcasts) featured in the news.