

## 3.1 Library Copying

There are a number of copyright exceptions that apply to copying undertaken by TAFE/school libraries. This information sheet explains when each of these exceptions applies.

### **Making copies of content held by a TAFE/school library for the purpose of preserving the content: the preservation copying exception**

The preservation copying exception in s 113H of the Copyright Act permits TAFE/school libraries to make copies of copyright material that they already hold in their collections for the purpose of preserving the collection. An example of this would be the library making a backup copy of copyright material that it purchases in order to ensure that it can still use the material if the original is damaged, lost or stolen etc. It would also include making a copy of copyright material that had already begun to deteriorate. The preservation copying exception would not apply, however, if the library had another purpose for making the copy, such as creating an electronic copy to make available to students undertaking a course.

The preservation copying exception applies to all copyright material: ie text and artistic works as well as audio-visual content such as sound recordings and films.

Once a preservation copy has been made for the relevant purpose, the library can rely on this provision to allow users of the library to access the copyright material in electronic form at the library, provided that the library takes reasonable steps to ensure that the person who accesses the copy does not infringe copyright.

There is no requirement to include any notice on copies made under this exception.

### **Making copies of content held by a TAFE/school library for the purpose of research carried out at the library: the library research exception**

The library research exception in s 113J of the Copyright Act permits TAFE/school libraries to make copies of copyright material that they already hold in their collections for the purpose of research carried out at the library, provided that the library takes reasonable steps to ensure that the person who accesses the copy does not infringe copyright.

An example of this would be making a digital copy of a book that the library holds in its collection in order to enable staff or students to access the copy (eg via a terminal at the library) for their own research purposes. This exception applies to all copyright material: ie text and artistic works as well as audio-visual content such as sound recordings and films.

There is no requirement to include any notice on copies made under this exception.



## **Making and supplying copies of content held by a TAFE/school library at the request of a student for that student's research or study: the copying for users exception**

The copying for users exception in s 49 of the Copyright Act permits TAFE/school libraries to make a copy of a text or artistic work at the request of a user (whether a teacher or a student) for that person's own research or study. The request must be in writing and must contain a declaration from the person requesting the copy that is only for research or study and not for any other purpose, and that the person has not been previously supplied with a copy of the same work by the library. If, however, the remoteness of the person's location prevents them from providing a written notice soon enough to enable the copy to be supplied by the time they require it, the request and declaration can be provided orally.

This exception does not apply to audio-visual material or sound recordings.

The following copying limits apply:

- For periodical publications - one article, or two or more articles from the same issue if the articles are for the same research or course of study
- For a work in hardcopy form other than an article in a periodical publication, 10% or one chapter, whichever is the greater . If more than this is required, the teacher-librarian or teacher-in-charge of the library must first be satisfied that the work to be copied is not available for purchase, new, as a separate publication, at an ordinary commercial price within a [reasonable time](#).
- For a work in electronic form, 10% of the words in the work. If more than this is required the teacher-librarian or teacher-in-charge must be satisfied that the work is not available for purchase, new, as a separate publication, at an at an ordinary commercial price within a [reasonable time](#).

Copies made under this exception must contain a notice stating that the copy was made by the TAFE/school library, and the date on which the copy was made.

If the copy has been made by scanning from a hardcopy in the library's collection, the electronic copy that is made must be destroyed as soon as practicable after it has been sent to the person requesting it.

If a copying charge is made, the cost must not exceed the cost to the library of making and supplying the copy.

## **Making copies of content held by a TAFE/school library at the request of another library: the interlibrary loan exception**

The interlibrary loan exception in s 50 of the Copyright Act permits a TAFE/school library to make a copy of a text or artistic work for either a user of another library, or to be included in another library's collection, if it receives a written request. Where a TAFE/school library requests



a copy of material from another library under this exception, it must complete an interlibrary request form in the required form. You can obtain a sample request and copying form here: <http://www.smartcopying.edu.au/docs/default-source/default-document-library/interlibrary-request-form.doc?sfvrsn=2>

This exception does not apply to audio-visual material or sound recordings.

The copying limits are the same as those set out above in relation to the the copying for users exception in s 49.

Copies made under the interlibrary loan exception must contain a notice stating that the copy was made by the TAFE/school library, and the date on which the copy was made.

If the copy has been made by scanning from a hardcopy in the library's collection, the electronic copy that is made must be destroyed as soon as practicable after it has been sent to the person requesting it.

If a copying charge is made, the cost must not exceed the cost to the library of making and supplying the copy.

All records of copying should be kept for four years. Three separate files are recommended, namely:

- requests made
- requests pending
- copies supplied

All the forms that relate to interlibrary loans must be filed chronologically by the date of declaration.

### **Making copies for use in class**

The library copying provisions discussed above **cannot** be used when the purpose of the copying is to make copies for use in class.

TAFE/school libraries can rely on the Statutory Text and Artistic Licence to copy an entire work - and to make this available to students - if the work is out of print and cannot be purchased in electronic form in a reasonable time for an ordinary commercial price.

### **Copying and communicating content in reliance on the flexible dealing exception in s 200AB**

The flexible dealing exception in s 200AB of the Copyright Act also contains a library copying provision that can be relied on by TAFE/school libraries for some copying. Note: the library



copying flexible dealing exception is contained in s 200AB(2). This is a separate provision to the educational flexible dealing exception contained in s 200AB(3), which can be relied on when the TAFE/school is making copies for the purpose of “giving educational instruction”.

You can only rely on the library copying flexible dealing exception if none of the exceptions discussed above (or any other exception) apply.

There are likely to be few - if any - circumstances in which the library copying flexible dealing exception would apply to copying by a TAFE/school library.

