



Intellectual
Property
Office

Exceptions to copyright: Education and Teaching



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Copyright protects literary, dramatic, musical and artistic works as well as films, sound recordings, book layouts, and broadcasts. If you want to copy or use a copyright work then you usually have to get permission from the copyright owner, but there are a few exceptions where you can copy or use part or all of a copyright work without permission. Where a work contains a performance, the performer will also have rights over how the work is used. The exceptions to copyright also apply to these related rights.

The law on these exceptions is changing in a number of small but important ways, to make our copyright system better suited to the digital age. These changes will affect how you can use content like books, music, films and photographs.

The majority of uses of copyright materials will continue to require permission from copyright owners, so you should be careful when considering whether you can rely on an exception, and if in doubt you should seek legal advice. Copyright infringement is against the law. Deliberate infringement on a commercial scale may lead to a criminal prosecution, so you should take care when using copyright materials. Further guidance on copyright is available on the Intellectual Property Office website.

These changes will come into force in June 2014 – find out how you will be affected.



Who should read this guidance?

This leaflet sets out an overview of the changes to the copyright exceptions for education and teaching. This may be relevant to:

- Individuals such as teachers and pupils, lecturers and students;
- Educational establishments such as schools and universities;
- Other providers of instruction such as museums and youth organisations.

What's changing?

Changes are being made to copyright law in order to help teachers to deliver modern multi-media teaching without risk of copyright infringement.

The exceptions relating specifically to educational establishments are widening, allowing more extensive use of materials in conjunction with educational licensing schemes.

Another change will permit minor acts of copying for teaching purposes, as long as the use is considered fair and reasonable. So, teachers will be able to do things like displaying webpages or quotes on interactive whiteboards, without having to seek additional permissions.

Educational use

What's changing?

Many schools, colleges and universities copy media which is protected by copyright – for instance photocopying extracts from books for class handouts or recording television programmes to show to a class.

In order to do this, educational establishments must hold educational copying licences. So if a school wants to record television broadcasts, it needs a licence from the Educational Recording Agency. If it wants to photocopy extracts from books, it needs a licence from the Copyright Licensing Agency. Most educational establishments already hold these licences.

These licensing schemes are underpinned by copyright exceptions which mean that, where a particular work is not covered by a licence, an educational establishment is still able to copy it. This means that teachers do not have to check the terms of each item they want to copy before they copy it.

The changes to the law will apply these exceptions to a wider range of copyright works which are currently not covered by them – such as artistic works (including photographs), films and sound recordings. They will also permit sharing of copies over secure distance learning networks. In order to carry out these activities, schools, colleges and universities simply need to make sure they hold the relevant licences.

The current law also allows limited copying of literary, dramatic, musical or artistic works for the purposes of teaching, provided it is not by means of a reprographic process. This means copying by hand is permitted, but the use of laptops and interactive whiteboards is not. This current law will be replaced with a general “fair dealing” exception, allowing copying of works in any medium as long as the following conditions apply:

1. the work must be used solely to illustrate a point;
2. the use of the work must not be for commercial purposes;
3. the use must be fair dealing; and
4. it must be accompanied by a sufficient acknowledgement.

This means minor uses, such as displaying a few lines of poetry on an interactive whiteboard, will be permitted, but uses which would undermine sales of teaching materials will still need a licence.

The new law will not remove the need for educational establishments to hold licences for use that is not “fair dealing,” for instance, photocopying material to distribute to students. So schools will still have to pay for books like any other organisation.

FAQ

Does this mean schools/universities will no longer need photocopying licences?

No, schools and universities will still need to hold photocopying licences. However, where works are not available under licence, a teacher will be able to make photocopies of extracts from works without worrying about copyright infringement, as long as they copy no more than 5% of the work per annum.

Will this allow photocopying of sheet music so people no longer need to buy copies?

No. As at present, schools will still need photocopying licences in order to reproduce sheet music for use by orchestras, for example. The fair dealing exception will only allow small, illustrative uses, such as copying and displaying a few bars of musical notation to a class studying musical composition.

I don't work for an educational establishment, can I use the exception?

The fair dealing exception will apply to acts of teaching in general, not only educational establishments. The exceptions which allow more generous copying in conjunction with educational licensing schemes will only apply to educational establishments.

Will this allow me to provide online courses to people in other countries?

No. Copyright is a territorial right, and different acts are permitted in different countries. You will need to ensure that you comply with the laws of the countries in which you provide online resources.

Does this let me copy material for use in exams?

Teaching use which is fair dealing, illustrative and non-commercial is permitted by the exception and uses for exam purposes may fall within these criteria. You may also be able to rely on the new quotation exception, for example where you wish to reproduce a piece of text for analysis in an English exam.



Research and Private study

What's changing?

The change in the law means that for the first time, researchers and students who need to copy parts of sound recordings, films or broadcasts for non-commercial research or private study will be allowed to do so.

Libraries and archives will also be able to make copies of artistic works for researchers and students. Education institutions, libraries, archives and museums will also be able to offer access to copyright works on their premises by electronic means at dedicated terminals.

Researchers and students are currently allowed to copy limited extracts of literary, dramatic, musical and artistic works for non-commercial research and private study. They will now be able to copy a limited amount of a sound recording, film or broadcast. This amount is restricted to fair dealing, which rules out unfair or unreasonable uses such as copying a whole film for “research” instead of buying the DVD. Any use made of the work must be accompanied by a sufficient acknowledgement.



FAQ

Does this mean that students or researchers can use the exception simply to copy, for example, any film they wish?

No. The exception permits copying only of what is strictly necessary for genuine research or private study, so a film would have to be genuinely relevant to their course, or to some other independent study. Copying a whole work would not generally be “fair dealing.”

Does this mean that companies will be able to access material for free if they are doing research?

Commercial research of any sort is not allowed under this exception. Anyone carrying out commercial research will have to obtain works under a licence.

How much of a work am I allowed to copy?

The amount you are able to copy is limited to what is considered “fair dealing” – see inset for more information. This generally means that only a limited part of work that is necessary for the research project may be copied.

What does sufficient acknowledgement mean?

This generally means that you will need to identify the author, artist or creator of the work, and the title or some other identifying description of the work that has been copied.

What can I do with work I view on a dedicated terminal?

What you will be able to do with works you view on a dedicated terminal will be up to the licence terms of the work, and the facilities that are in place at the institution where you are viewing the work.

Do I have to delete the copies I make once my research project is over?

You are not required by law to delete the copies but you are prevented from using them for any purpose other than research or private study.

Why can't I copy the whole work? Studying films and music will be much harder if I can't make a copy in its entirety.

The exception allows you to copy a limited amount but the law is designed to protect the hard work and investment of those who create the films and music you want to listen or watch. If you wish to obtain the whole work, you will need a licence or purchase the work.

Quotation

What's changing?

Current law restricts freedom of comment by preventing free use of quotations, even when a quote is very short. This means minor uses of copyright materials, such as the use of citations in academic papers and the use of quotes to identify web links, may currently be prevented by copyright owners, stifling freedom of expression.

Copyright law will be amended to give people greater freedom to quote the works of others, as long as this is reasonable and fair (“fair dealing”).

FAQ

Does this exception mean that people can “quote” any amount of copyright material for free?

No. It will only allow the use of material for the purpose of quotation to a fair extent (e.g. it does not replace a commercial sale). So, for example, it could permit a short quotation that is necessary and relevant in an essay or academic paper.



Caricature, parody or pastiche

What's changing?

The ability to re-edit copyright works in new and experimental ways is seen as an important learning and teaching exercise for creative skills.

Many works of caricature, parody or pastiche, especially in this age of digital creation and re-mixing, involve some level of copying from another work. Obtaining permission to use copyright material can be costly and time-consuming. The law is changing to allow limited uses of other people's copyright material for the purposes of caricature, parody or pastiche, without first asking for permission.

It is important that educators understand the limits of this new provision.

For further information see: [Exceptions to copyright: guidance for creators and copyright owners](#).



Educational licences

I have a licence granted under the old law, what happens once the new law comes in?

Educational establishments continue to need licences for things like photocopying and recording of broadcasts. The new laws will not change the need for schools, universities and colleges to have those licences in place, and it is unlikely that the changes will affect your licences.

If your licence was granted before the new laws came into force, and permits a wider range of activities than the new laws, then your licence will be unaffected.

If the new laws let you do more than your licence, then you can rely on the new laws. Your licence will still be valid, but if it says you cannot use a copyright work in a way permitted by the new laws, you can use the work under the exception without infringing copyright.

Further information on educational licensing

The Educational Recording Agency www.era.org.uk

The Copyright Licensing Agency www.cla.co.uk

NLA Media Access www.nlamediaaccess.com

The Music Publishers Association www.mpaonline.org.uk

What is fair dealing?

'Fair dealing' is a legal term used to establish whether a use of copyright material is lawful or whether it infringes copyright. There is no statutory definition of fair dealing - it will always be a matter of fact, degree and impression in each case. The question to be asked is: how would a fair-minded and honest person have dealt with the work?

Factors that have been identified by the courts as relevant in determining whether a particular dealing with a work is fair, include:

- Does using the work affect the market for the original work? If a use of a work acts as a substitute for it, causing the owner to lose revenue, then it is not likely to be fair.
- Is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount that was taken? Usually only part of a work may be used.

The relative importance of any one factor will vary according to the case in hand and the type of dealing in question.

Further Information

Guidance on changes to the copyright exceptions is available at <http://www.ipo.gov.uk/copyright-exceptions.htm> Guides include:

- Overview
- Guidance for consumers
- Creators and copyright owners
- Research
- Copyright material held by public bodies
- Libraries, archives and museums
- Accessible formats for disabled people

Find out why the Government is changing the copyright exceptions here:

Modernising Copyright, a modern, robust and flexible framework: <http://www.ipo.gov.uk/response-2011-copyright-final.pdf>

IP information: Learn more about Intellectual Property by visiting the IPO web pages: www.ipo.gov.uk

Licensing: More information can be found at: <http://www.ipo.gov.uk/types/copy/c-other/c-licence.htm>

IP Healthcheck: The IPO's free IP Healthcheck can help you to find out more about the different IP rights and how they affect you and your business: www.ipo.gov.uk/iphealthcheck

Note: This guidance sets out the general principles of the changes to copyright law, it is not legal advice. It is recommended that you obtain legal advice in circumstances where you have specific questions relating to the law.



Intellectual Property Office Online

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Any enquiries regarding this publication should be sent to:

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