

## 1. COPYRIGHT FOR TERTIARY TEACHING STAFF

### (a) What this section is about

This section of the Guide provides information about copyright for teaching staff at TEIs in New Zealand. It focuses the issues relevant to the preparation and distribution of teaching materials such as course readings and explains what can and cannot be done under copyright rules. For information that is specifically relevant to individuals undertaking research, see section 4 of the Guide, *Copyright for Students and Researchers*.

### (b) Use of copyright material in teaching

#### (i) Relevance of copyright for teaching staff and lecturers

In the tertiary sector, teaching staff and lecturers deal with a range of copyright material when preparing course packs and delivering lessons to students. Copyright compliance is not only a legal obligation, but a professional responsibility. It is important for teaching staff to demonstrate respect for copyright rules. In adopting copyright best practice, teachers promote a culture of copyright awareness and model appropriate behaviour for students.

#### (i) Importance of educational context

Working in the educational sector you have access to statutory permissions and special licences that allow you more extensive use of copyright material than would otherwise be allowed under normal rules. Material copied or made available under these provisions is for educational or instruction purposes only. This generally means material can only be supplied to enrolled students (or staff) at an educational establishment. If there is an intention of using the material outside the education or class room context, it is likely that you will need to get permission from rights owners.

#### (ii) Importance of attribution

It is always necessary to acknowledge sources for all copyright material copied and supplied during the course of study, including articles, images or video clips. Many teachers are also authors and content creators and would expect similar acknowledgement for material they create.

- (iii) **Sometimes copyright will not apply.** Although copyright will apply to the majority of teaching resources, there are some situations where copyright does not apply, for example if the term of copyright has expired and the work is in the public domain, you do not need permission to use it. A few specific types of “public” documents such as statutes, court judgements and official reports do not have copyright protection.

### (c) How to stay copyright compliant

#### (i) Identify the source of the material

When it comes to preparing and distributing teaching materials for students, what you can do depends on the source of the copyright material you want to copy or use. Once the source is identified, you can determine where to look to see if you need permission.

#### (ii) See what permissions already exist

Often permission will already exist for you to use materials for your teaching purposes. If you want to copy certain printed material, copy off-air broadcasts or transmissions, copy or publicly perform music and sound recordings - you may have permission to do so under a collective licence paid for by your TEI. Without a licence, you may still be

able to copy, albeit to a more limited extent, under the educational provisions of the Copyright Act. If it is material sourced from an electronic database subscribed to by your institution, the terms of the subscription licence will apply to what you can do. If the material is sourced from the internet, you may be allowed to copy and supply copyright material under an open licence, such as Creative Commons. If there are no such permissions, you will need to get permission from the copyright owner to do any of the acts restricted by copyright. Your librarian or copyright officer will be able to assist.

## (d) Material covered by collective licences

### (i) Collective licences

a. Many TEIs take up collective licences that extend the use they can make of copyright content and reduce the need to identify, contact and negotiate copyright permissions with individual rights owners. These licences deal with:

- **Copying from printed books, journals and periodicals** – Copyright Licensing NZ (CLNZ).
- **Copying off-air broadcasts and transmissions** – Screenrights.
- **Copying and public performance of music and sound recordings** – APRA/AMCOS/PPNZ.
- **Copying NZ newspapers** – PMCA.

b. It is likely that your institution already has one or more licences with a collecting society. For most TEIs, a CLNZ licence is a necessity to facilitate copying for course packs and lecture materials. It is important that you familiarise yourself with the terms and conditions of any such licence. If you are not sure whether your institution has a licence or you believe your institution should take up one, consult your librarian or copyright officer.

### (ii) Exact copying

Generally there is a requirement to ensure that copies made under a collective licence are exact copies. For example, the CLNZ licence requires copied material to be a “reasonably accurate copy of the original, which preserves the structure, layout, authenticity and integrity of the original”.

### (iii) Warning notices

All material distributed to students under collective licences must include an appropriate warning notice for students about their responsibilities when using such materials. For example, the CLNZ licence warning notice states:

*“This material is protected by copyright and has been copied by and solely for the educational purposes of [institution] under licence. You may not sell, alter or further reproduce or distribute any part of this coursepack/material to any other person. Where provided to you in electronic format, you may only print from it for your own private study and research. Failure to comply with the terms of this warning may expose you to legal action for copyright infringement and/or disciplinary action by [institution].”*

## (e) Material covered by a subscription licence

It is likely that your TEI subscribes to various electronic databases, e-journals and e-books. The use of the content in subscription materials is generally governed by the terms in the separate licence agreement between the institution and the vendor and the terms of each may be different. A subscription licence may permit more (or less) use of copyright than is

allowed under the Copyright Act. If you wish to copy content from subscription databases for print course packs or provide electronic access for students, consult your institution's librarian or copyright officer to determine what you can do.

**(f) Reading list management**

Many TEIs provide teaching staff with access to reading list management systems which assist in the supply of copyright compliant course readings to students, whether in hard copy course packs or by electronic distribution. The correct use of these systems ensures that all copying for students of book chapters or journal articles is correctly recorded and information about what has been copied can be provided to CLNZ. Correct recording ensures CLNZ can distribute the licence fees paid by the institution to the publishers and authors of the content that has been copied under the licence. Institutions licensed with CLNZ are obliged to record what is copied for students under the licence. Reading list management systems may also record the use in course materials of e-books or e-journals to which the TEI subscribes to.

**(g) Statutory exceptions for educational use**

**(i) Copyright Act**

The educational provisions under the Copyright Act, especially those that allow you to copy and supply extracts of print material for students, are restrictive. For many TEIs, the statutory rules have been superseded by collective and subscription licensing. However, if your institution does not have a licence, or your requirements are outside the scope of a particular licence, the statutory exceptions may be relevant.

**(ii) Where to find details**

The Copyright Act can be found at <http://www.legislation.govt.nz/>. A summary of permitted uses that apply in the educational context can be found in Section 2 of this Guide *Copyright in the Tertiary Education Sector*. Relevant provisions are also referenced in the table below.

**(i) Internet material**

**(i) No implied licence**

You should assume there is copyright in all material made available on the internet unless the term of copyright has expired (in most cases this means that the author has been dead more than fifty years). There is no implied licence or permission to copy just because material is made available on the internet. If you wish to print out material from the internet to supply to students check the terms and conditions that accompany the content or find the website Terms of Use or Copyright Page to determine whether you are allowed to do this. If material is freely available, it is important to read the terms to see what if any conditions apply. For example, you may be free to download and print multiple copies of a work as long as you use it for education purposes and as long as the author is properly credited. If you cannot find any licence terms, you need to get permission from the copyright holder. If it is not clear who to contact to seek permission for your use, contact the website proprietor in the first instance.

**(ii) Streaming**

Generally it is not an infringement of copyright to view a live broadcast online although this depends on whether it is being streamed legitimately. This can be determined by observing the quality of the transmission and whether you are aware that someone else has exclusive broadcast rights for the material.

**(iii) Storing webpages for educational purposes**

Under the Copyright Act, educational establishments are permitted to store webpages for educational purposes under certain conditions.

**(iv) Providing URL links**

A simple way to provide internet content to students is to provide them with a URL link to the relevant material so they can access content directly. As you are not actually copying materials there is no risk of copyright infringement.

**(v) Open access**

a. Open access licensing is becoming more prevalent as more material is sourced from the internet. An open access licence is where the copyright owner has made it known that you may use their copyright material without needing to ask and usually without requirement that a licence fee be paid. It is important that you adhere to any terms and conditions when printing or communicating content sourced under an open access licence.

b. If you wish to teach an open access course (known as massive open online course (MOOC)), particular care is needed if you are copying and communicating third party copyright material. An open access course is available to anyone with an internet connection so teachers cannot rely on collective or subscription licences which require content to be communicated to students in a secure, password protected environment. It is advisable to use open access or public domain content where possible where teaching an open access course, or to seek permission where third party copyright material is reproduced.

**(j) Teacher copyright compliance guide**

The following table summarises what teaching staff can do in an educational context with certain types of material to ensure that they remain compliant. If your proposed use is not covered, permission needs to be obtained from the copyright owner.

Type / source of copyright material	What are teachers allowed to do	Source of permission
Any copyright material	May be copied by teachers (or students) for examination purposes, such as setting questions, communicating questions to candidates, answering questions. Assignments, theses and dissertations which count towards a student's final grade in a course are considered examinations.	s49
Hard copy printed books, journals, periodicals and newspapers	Photocopy or scan up to 10% or one chapter/article, whichever greater, from an original published edition; more than one article from the same issue of a periodical where articles are on the same subject; up to 15 pages from a collection of works.  Supply copies to students in either hard copy or electronic form.  Licence exclusions: <ul style="list-style-type: none"><li>Printed music (including words)</li></ul>	CLNZ licence

	<ul style="list-style-type: none"> <li>• Loose maps and charts</li> <li>• House journals</li> <li>• Artworks, such as illustrations/photographs, except where included on a page copied under the licence</li> <li>• Privately owned documents issued for tuition purposes and limited to clientele who pay fees</li> <li>• Theses, dissertations and student papers</li> <li>• Any work on which copyright owner has prohibited copying under any copyright licence</li> </ul> <p><i>Or</i></p> <p>Photocopy or scan up to 3% of 3 pages of a whole work (published or unpublished), which ever greater. If that constitutes a whole work, then only 50% may be copied. No re-copying permitted for 14 days. No charges can be made to students for this copying. You may communicate copies to students electronically. No copying of artistic works unless included within the part of any work or edition copied.</p> <p><i>Or</i></p> <p>Any copying of “short extracts” from a work in an anthology (intended for use in educational establishments), provided anthology consists mainly of non-copyright material or Crown copyright material or material owned by the anthology publisher. Cannot copy more than 2 extracts from works of the same author published by same publisher over 5 years. No permission to electronically communicate to students.</p>	<p>s44(3)-(6)</p> <p>S46</p>
<p>Artistic works e.g. illustrations, photos, diagrams, graphs.</p>	<p>There is no permission to copy or communicate an artwork unless the source indicates that such use is permitted, or:</p> <ul style="list-style-type: none"> <li>- It is included on a page copied under the CLNZ licence or</li> </ul> <p><i>Or</i></p> <ul style="list-style-type: none"> <li>- It is included in the part of any work or edition copied under Copyright Act</li> </ul>	<p>CLNZ licence</p> <p>s44(3)-(6)</p>
<p>Printed /sheet music, including</p>	<p>Photocopy or scan up to 3% of 3 pages of a whole work (published or unpublished), which ever greater. If that constitutes a whole work, then only 50% may be copied. No</p>	<p>s44(3)-(6)</p>

lyrics	<p>re-copying permitted for 14 days. No charges can be made to students for this copying. You may communicate copies electronically to students.</p> <p>No permission to copy under the Music Licence.</p>	
Out of print hard copy books, journals, periodicals and newspapers	May be photocopied on a case by case basis with permission from CLNZ. "Out of print" means a copyright work that cannot be obtained within a reasonable period of time at an ordinary commercial price.	CLNZ licence
In transit print hard copy books, journals, periodicals and newspapers	May be copied on a case by case basis with permission from CLNZ. "In transit" means in transit to the institution and will not be received within a reasonable time prior to its required use.	CLNZ licence
Digital works from library database (e-books, e-journals, periodical, PDFs)	<p>May be copied and used only in accordance with the terms of subscription licences.</p> <p><i>Or</i></p> <p>Make multiple copies, by any means, of up to 3% of 3 pages of a whole work, which ever greater. If that constitutes a whole work, then only 50% may be copied. No re-copying permitted for 14 days. No charges can be made to students for this copying. You may communicate copies electronically to students. No copying of artistic works unless included within the part of any work or edition copied.</p>	<p>Licence terms</p> <p>s44(3)-(6)</p>
Works from internet (such as text, articles, images etc)	<p>Copy, print and distribute in accordance with terms of any open access licence (such as Creative Commons). However, do not assume all copyright material on the internet is free to use.</p> <p><i>Or</i></p> <p>Print multiple copies, by any means, of up to 3% of 3 pages of a whole work, which ever greater. If that constitutes a whole work, then only 50% may be copied. No re-copying permitted for 14 days. No charges can be made to students for this copying. Can also communicate copies electronically to students.</p> <p>No copying of artistic works unless included within the part of</p>	<p>Licence terms</p> <p>s44(3)-(6)</p>

	<p>any work or edition copied.</p> <p><i>Or</i></p> <p>Store webpages provided</p> <ul style="list-style-type: none"> <li>• page displayed under a separate frame or identifier,</li> <li>• author (if known) and source of the work identified,</li> <li>• name of the educational establishment and date of storage stated.</li> </ul> <p>Access to material must be password protected. The stored webpage must be deleted once no longer relevant to the course.</p> <p><i>Or</i></p> <p>Provide a URL link (no copyright issue).</p>	S44A
Sound recordings, films, communication works	<p>Copied by teachers (or students) for the educational purposes of making a film or film sound track. Students cannot be charged for the supply of these copies.</p> <p>Sound recordings may be copied where the lesson relates to the learning of a language or is conducted by correspondence. Students cannot be charged for the supply of these copies.</p> <p>Playing or showing before audience of staff or students at the institution (not parents/guardians). Paying audience not permitted. No permission to play in public.</p>	<p>S45(1)-(2)</p> <p>S45(3)-(5)</p> <p>S47(2)-(3)</p>
Literary, dramatic or musical works	<p>May be performed by students or staff, before audience of staff or students at the institution (not parents/guardians). Paying audience not permitted.</p>	S47(1)-(3)
Commercial music/recordings	<p>Perform or play for educational purposes, for example during live concerts or other events performed at the institution by students.</p> <p>Copy those performances and communicate copies to staff and students, for archival purposes or for own private use. (You must get consent of the performers to record their performances)</p> <p>Copy and communicate for educational purposes.</p> <p>Combine music/recordings with video or digital recordings</p>	Music Licence

	<p>for educational purposes.</p> <p>No adaptation of music, for example you are not allowed to perform any music with new or substituted lyrics.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> <li>• Performing entire Grand Rights works i.e. productions where music has been specifically composed for a theatrical work (e.g. Cats or West Side Story) and making video recordings (including excerpts).</li> <li>• Performing Choral Works of more than 20 minutes duration in its entirety i.e. a musical work written to be sung by a choir or group of singers, with or without any instrumental accompaniment.</li> <li>• Performance of music in Dramatic Context i.e. in conjunction with acting, costumes, scenic accessories and scripted dialogue or other dramatic effects.</li> <li>• Perform music so as to burlesque or parody.</li> </ul>	
<p>Communication works, such as web streams, podcasts, TV and radio broadcasts</p>	<p>Copy from radio and TV broadcasts (including Pay TV).</p> <p>Download online audio visual programmes (provided they are legally available).</p> <p>Download certain specified online radio programmes only. (Check Screenrights licence for limitations.)</p> <p>Make multiple copies in any format.</p> <p>Use learning management systems to access and communicate copied programmes.</p> <p>Retain copied materials as an ongoing educational resource for future years.</p>	<p>Screenrights Licence</p>