

# Copyright information from ANU Library: copyright for researchers

## General principles

- Cite all material that you use—reference accurately.
- Ensure that if you use a “substantial” part of a work you have the right to use it in your publications.
- Make copies of material, whether print or electronic copies, in accordance with the fair dealing provisions of Copyright Act or use other options such as permission from the creator.
- Material created by others can be used in your publications—review your papers to make sure appropriate permissions have been obtained.
- Library staff can assist with information on copyright.
- Material on the Internet is not necessarily able to be freely copied or reproduced without permission.

The Australian National University is committed to compliance with the Copyright Act 1968 and upholding the rights of creators and users of copyright material.

This guide is prepared to assist researchers to understand the basics of copyright for their theses, publications and other work. Further general assistance can be found from other materials on the University’s copyright site (<http://copyright.anu.edu.au>) or from the University Library.

If you need advice in relation to a University copyright matter and your question has not been resolved after reviewing the materials in this guide, you may refer your question to the ANU Copyright Officer for further assistance.

### Copyright Officer

Roxanne Missingham, University Librarian

Tel: 02 6125 2003

E: [Roxanne.missingham@anu.edu.au](mailto:Roxanne.missingham@anu.edu.au)

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Version 1.01

Prepared May 2013 by Roxanne Missingham, University Librarian

## What is copyright?

The Department of Communications and the Arts publication *Short guide to copyright*<sup>1</sup> states:

- Copyright is a type of property that is founded on a person's creative skill and labour. Copyright protects the form or way an idea or information is expressed, not the idea or information itself.
- Copyright is not a tangible thing. It is made up of a bundle of exclusive economic rights to do certain acts with an original work or other copyright subject-matter. These rights include the right to copy, publish, communicate (eg broadcast, make available online) and publicly perform the copyright material.
- Copyright creators also have a number of non-economic rights. These are known as moral rights. This term derives from the French *droit moral*. Moral rights recognised in Australia are the right of integrity of authorship, the right of attribution of authorship and the right against false attribution of authorship.

## Why is copyright important?

Copyright is a legal set of protections for creators. If copyright is infringed (breached) penalties can be sought by creators. While there have not been a large number of cases in the university sector in recent years, penalties can be significant.

The University is committed to compliance with the Copyright Act 1968. All staff and students are informed through guidance material and training as appropriate to ensure in compliance.

## What does copyright protect?

Australian copyright legislation (the Copyright Act 1968) protects works which are “original” (the product of a creator's own intellectual effort, and not copied from another person's work). Copyright subsists for works created by a resident or citizen of Australia; made or first published in Australia, or for citizens from countries which are members of a relevant international copyright treaty.

Copyright protects:

1. **Works** are protected by copyright. The Act defines these as original **literary, dramatic, musical** and **artistic works**. Fiction and non-fiction are covered, as are print and electronic materials.
2. **Literary works** covers works that are written or produced in another form by a creator. They must be non-trivial in order to be covered by copyright. Covered in the scope of literary works are letters, manuscripts, emails, articles, novels, poetry, song lyrics, timetables, databases and computer programs.
3. **Artistic works** are covered. This includes paintings, photographs, sculptures, engravings, sketches, blueprints, drawings, plans, maps and buildings or models of buildings, irrespective of the artistic quality of the work.

There are categories of material covered by copyright material collectively referred to as “subject-matter other than works” which includes:

- Films and sound recordings.**
- Radio and television broadcasts.**

**Compilations of works**, such as conference proceedings and collections of essays are also covered (as works)<sup>2</sup>. If the compilation is not “original”, for example not created by “independent intellectual effort” nor the product of “sufficient effort of a literary nature”, the compilations may not be covered by copyright.

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<sup>1</sup> <https://www.communications.gov.au/documents/short-guide-copyright> Accessed 23 January 2019

<sup>2</sup> Australian Copyright Council (2012) *Databases, Compilations, Tables & Forms*. May 2014, Strawberry Hills, NSW 2013.

[https://www.copyright.org.au/ACC\\_Prod/ACC/Information\\_Sheets/Databases\\_\\_Compilations\\_\\_Tables\\_\\_\\_Forms.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef](https://www.copyright.org.au/ACC_Prod/ACC/Information_Sheets/Databases__Compilations__Tables___Forms.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef)

Australian copyright legislation is different to that of the UK and US. For example the US legislation has provisions for “fair use” and Government publications are not covered by copyright and therefore are “public domain”.

## How long does copyright last?

Under the Australian Copyright Act 1968, copyright last as follows: (This is an extract, see Attachment B for full listing.)

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Literary, dramatic, musical works (other than computer programs)	Made public before death of author	Author died before 1 January 1955	Life of author + 70 years
Literary, dramatic, musical works (other than computer programs)	Made public after author's death and before 1 January 2019	Made public before 1 January 1955	Year first made public + 70 years
Literary, dramatic, musical works (other than computer programs)	Made public after author's death and on or after 1 January 2019	Author died before 1 January 1949	Life of author + 70 years
Literary, dramatic, musical works (other than computer programs)	Never made public	Author died before 1 January 1949	Life of author + 70 years
Artistic works other than engravings or photographs		Author died before 1 January 1955	Life of author + 70 years
Photographs		Made before 1 January 1955	Life of author + 70 years
Photographs where the author is unknown	Made public before 1 January 2019	Made before 1 January 1955	Year first made public + 70 years
Works made, or first published, by the Commonwealth, or a State or Territory		Made before 1 January 1969	Year made + 50 years

### Note:

- Film footage shot before May 1969 is defined as a series of photographs.
- Films may have complexities for music and other components that have different copyright or license conditions.
- Works may be reissued in a revised form after the death of the creator or author. The revision may extend the period of copyright protection, with the creator being both the person/s responsible for the revision and the original creator.

## Fair dealing

The fair dealing provisions (see **Attachment A**) allow for use of literary, dramatic, musical or artistic work, or with an adaptation of a literary, dramatic or musical work, without payment of a fee or a license. A 'dealing' with copyright material is using the material in any of the ways reserved to the copyright holder<sup>3</sup>.

This covers uses such as:

- reproduction or communication (such as sending by email) of a reasonable portion of a work for research or study by a student enrolled at the University;
- use of a work for the purpose of criticism or review, with sufficient acknowledgement of the work (section 41); and
- use of a work for the purpose of parody or satire, with sufficient acknowledgement of the work (section 41A).

The provisions for copying for the purpose of criticism or review do not have a limit on the amount of material you may reproduce or use. The following criteria must be met:

- you must make a genuine attempt to critique or review the work by analysing its merit;
- the dealing with the work must be 'fair'—'fair' for this provision is not defined in the Act; and
- you must acknowledge the creator and title of work.

In practice, this exception is unlikely to give you protection beyond that of use for research and study if you use reasonable portions of the work.

The Australian Copyright Council provides a number of information sheets that can help you establish whether your use is 'fair' and what constitutes a 'reasonable portion'<sup>4</sup>. The Copyright Act 1968 deems that **it is fair to reproduce 10% of the number of pages, or one chapter** (if the work is divided into chapters) **of published text or printed music**. When **reproducing text published in electronic format, 10% of the number of words can be copied or one chapter**.

The exception does not allow for unlimited copying for study, nor for unlimited reproduction of the work of others in your thesis or publications, such as journal articles.

## Quotations and extracts

The best way to avoid infringing copyright when using quotations and extracts is to make sure you reference sources correctly. The ANU Library website provides some guidance on referencing that can be found at <http://anulib.anu.edu.au/training/referencing/>.

The University also provides various training courses that can assist you with essay or thesis research, managing your thesis production, and searching databases and journals for information sources.

Generally, copyright infringement occurs when a substantial part of the work is used. A part may be considered substantial if it is important, essential or distinctive to the work; the quality of the part of the work you are using is often more important than the quantity.

According to the Australian Copyright Council<sup>5</sup>, you are likely to need permission to use a quotation or extract if:

- the quotation is a work for the purposes of copyright, or the quotation is an important part of a work, **and**
- the copyright has not expired, **and**
- no special exception applies (such as fair dealing for criticism and review, research or study, or for news reporting).

<sup>3</sup> [https://www.copyright.org.au/ACC\\_Prod/ACC/Information\\_Sheets/Fair\\_Dealing\\_What\\_Can\\_I\\_Use\\_Without\\_Permission.aspx](https://www.copyright.org.au/ACC_Prod/ACC/Information_Sheets/Fair_Dealing_What_Can_I_Use_Without_Permission.aspx)

<sup>4</sup> [https://www.copyright.org.au/ACC\\_Prod/ACC/Information\\_Sheets/Research\\_or\\_Study.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef](https://www.copyright.org.au/ACC_Prod/ACC/Information_Sheets/Research_or_Study.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef)

<sup>5</sup> [https://www.copyright.org.au/ACC\\_Prod/ACC/Information\\_Sheets/Quotes\\_Extracts.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef](https://www.copyright.org.au/ACC_Prod/ACC/Information_Sheets/Quotes_Extracts.aspx?WebsiteKey=8a471e74-3f78-4994-9023-316f0ecef4ef)

Always reference the material created by others that you quote or use in your thesis accurately. This requirement is not affected by whether you are using it under the *Copyright Act 1968* or other. This falls within the moral rights provisions and also professional academic practice.

This applies whether you are using an insubstantial or substantial portion of a work.

## Copyright and research data

Data can be protected by copyright in the literary works category, which includes 'tables' or 'compilations'. The protection can apply if the data is in a literary work (does not mean a work of fiction) and is 'original'.

The Australian Research Data Commons, previously Australia National Data Service (ANDS) advises that, "As general rule, the person who produces the data will own copyright in it. If two or more people have collaborated in producing the data, such that their individual contributions cannot be separated out from the whole work, they will be joint authors and will jointly own copyright. In a situation where the data has been produced by an employee acting in the ordinary course of their employment duties, copyright will belong instead to that person's employer."<sup>6</sup> ANDS has a Data Licensing page which contains information<sup>7</sup> and assistance.

Where data is collected under a contract for example a research grant there may be joint ownership of the research data or obligations regarding its publication, use and citation.

There are many advantages to publishing your research data, unless prevented by privacy, public sensitivity, or commercial matters. Data can be made available to others under a range of licences and conditions that make it clear to others how it can be used. Options include:

- > Creative Commons.
- > Science Commons.
- > GNU Free Documentation License.

If you are **creating or collecting data as part of your research** consider how you might make that data available with accurate and comprehensive metadata. The metadata should include information about the creator of the data, restrictions on its use, descriptions of the data in the collection and other data such as date collected or grant the information is collected under.

The University has a data repository—available at <https://datacommons.anu.edu.au/> is a part of Research Data Australia.<sup>8</sup> By listing your data in these services, you identify that the data has been collected and that you are the creator of the data. This both protects your rights and enables the research community to identify the data that you have collected.

The Australian National University is committed to the highest standards of research integrity and has extensive advice on<sup>9</sup> research practice and data collection and management. If you are undertaking data collection which includes human or animal ethics approval you will need to have a data management plan which should include information on how the data is stored, made available and permissions for data collection such as consent forms. Further advice can be obtained from the Office of Research Integrity Research Services at <https://researchservices.anu.edu.au/ori/responsible/contact.php>

Remember that data collections you use or create may have a range of rights holders, particularly if you are recording performances or music. There may be a requirement of a number of permissions for any particular data recording.

If you wish to use data that has been collected or created by others, you will need to ensure that you understand the conditions on which the data is made available and can be reused. If this is

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<sup>6</sup> [https://www.ands.org.au/data/assets/pdf\\_file/0010/1498744/Research-Data-Rights-Management-Guide.pdf](https://www.ands.org.au/data/assets/pdf_file/0010/1498744/Research-Data-Rights-Management-Guide.pdf). Accessed 22 January 2019

<sup>7</sup> <https://www.ands.org.au/working-with-data/publishing-and-reusing-data/licensing-for-reuse> Accessed 22 January 2019

<sup>8</sup> <https://www.ands.org.au/guides/research-data-rights-management> Accessed 5 February 2019

<sup>9</sup> <https://researchservices.anu.edu.au/ori/responsible>. Accessed 21 March 2013

not clear you should contact the individual or organisation who created or is responsible for the data.

If you wish to use the data in a publication, such as a journal article or essay, or if you are using a substantial portion of data and it is not covered by the fair use provisions of the *Copyright Act 1968*, nor a license such as Creative Commons, seeking permission from the copyright owner will enable you to use the material without infringing copyright.

## Your publications and copyright

Your publications, whether text or media, are likely to include quotations, tables, charts or multimedia material that has been created by others. These resources are an essential part of your original research.

Under the Copyright Act 1968 you can use material without permission or payment of fees if it falls into the following categories:

- You may be the copyright holder; or
- the University may be the copyright holder; or
- the University may have a license for use of the work/s that means that you can make a copy—the Library can check licenses for works; or
- Copyright may have expired in the works; or
- the works may be published under a Creative Commons license that allows for reproduction without permission: or
- reproduction falls within the fair dealing or other exceptions; or
- reproduction occurs with permission of the creator; or
- you are using an insubstantial portion of the work.

If you wish to use material that is not covered by the above cases you should consider:

- asking the creator for permission to use the material; or
- whether the fair use provisions of the Copyright Act 1968 will provide protection; or
- whether your use is for review or criticism (this enables use under the fair use provisions of the Copyright Act 1968); or
- whether the Library has a license which covers this use.

Always cite the material created by others that you quote or use in your publications accurately. This requirement is not affected by whether you are using it under the Copyright Act 1968 or other permissions. This falls within the moral rights provisions and also professional academic practice.

This applies whether you are using an insubstantial or substantial portion of a work.

## Depositing your publications in the University's repository

Under the University's Open Access policy and Code of Practice for Scholarly Publication and Dissemination at ANU you need to deposit a copy of your publications in the University's repository. This applies whatever the form of the publication is, whether print (book or journal article), digital or another format. Policies and the Code can be found online.<sup>10</sup>

The Australian National University is committed to the dissemination of research findings is essential both

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<sup>10</sup> See policies at <http://policies.anu.edu.au>

to differentiate the University's research excellence and support national and international research excellence.

The University acknowledges that researchers take into account a wide range of factors in deciding on the best outlets for publications arising from their research and teaching.

Open access increases the reach and benefit of research and education to society by facilitating the wide dissemination of knowledge including original research results, scholarly articles, source materials, digital representations of pictorial and graphic materials, and scholarly multimedia materials.

The University repository contains research outputs that are made available via open access and research outputs that are not available to the public.

Publications deposited in the repository can be made open or closed access, or partially open access. You will need to provide reasons should you wish your thesis to be closed access. The reasons that have been used to identify restricted access include material that is being used to lodge a patent, cultural sensitive material or contains confidential material.

Depositing your publications in the repository will increase use by the research community and thus recognition of your original work.

Keep records of any permissions you receive for use of the works of others. When you request permission bear in mind whether you would like the permission to cover your thesis and any journal articles or other works where you would wish to use the material.

## Publishing your research (journal articles, conference papers, books, etc)

While you are working on your thesis, and after, you are likely to be writing and presenting your research and ideas in works such as journal articles, conference papers and books.

The conditions for using work created by others (often referred to as third party material) described in the section above apply to your publications.

When you are considering options for publishing you might want to consider options that will optimise the impact of your work. Options include:

- publishing in a journal or book where you sign a copyright agreement—consider deleting any statement in the contract where the publisher is given full control of your copyright
- publishing in an open access journal—the Directory of Open Access Journals can be found online at <http://www.doaj.org/>
- publishing under a Creative Commons license. Many conferences and new journals are supportive of Creative Commons licensing

Research shows that publishing in an open access online channel or through Creative Commons increases your readership and impact. If you are on the organizing committee of a conference consider publishing the papers and proceedings in an open repository (such as the University's Digital collection). Contact the Digital Collection Manager for information about making conference papers available through the repository.

## Australian Research Council (ARC) and National Health and Medical Research Council (NHMRC) funded research

The ARC and NHMRC have had Open Access policies since 2012. The [NHMRC Open Access policy](#) was updated in 2018.

The [ARC Open Access Policy](#) was updated in 2017.

## **NHMRC Policy**

In summary:

NHMRC supports the sharing of outputs from NHMRC funded research including publications and data. The aims of the NHMRC Open Access Policy are to mandate the open access sharing of publications and encourage innovative open access to research data.

This policy also requires that patents resulting from NHMRC funding be made findable through listing in Source IP. Combined, these approaches will help to increase reuse of data, improve research integrity and contribute to a stronger knowledge economy.

All recipients of NHMRC grants must comply with all elements of the NHMRC Open Access Policy.

The NHMRC Open Access Policy is consistent with the Australian Government's commitment to open access, open data and intellectual property (IP) management. This policy is also aligned with the global open access movement where funding bodies, international organisations, governments and institutions have implemented open access policies or guidelines. In Australia, the NHMRC Open Access Policy is generally aligned with the Australian Research Council Open Access Policy 2017 and supports the overall intent of the F.A.I.R. Access to Australia's Research Statement through which data/information are made findable, accessible, interoperable and reusable.

- NHMRC requires that any peer-reviewed publication arising from NHMRC supported research must be made openly accessible in an institutional repository or other acceptable location (e.g. publisher website, subject repositories) within a 12-month period from the date of publication. This policy applies to all publications from 1 July 2012 except for peer-reviewed conference papers where it applies from 15 January 2018.
- NHMRC acknowledges the importance of making research data publicly accessible and therefore strongly encourages researchers to consider the reuse value of their data and to take reasonable steps to share research data and associated metadata arising from NHMRC supported research
- NHMRC notes that details of patent applications (including the invention title) are published in the Australian Official Journal Of Patents 18 months after the application's earliest priority date and requires Australian publicly funded NHMRC Administering Institutions to be listed as 'Research Organisations' with Source IP, and to list Australian filed patent publications generated as a result of NHMRC funding on Source IP

A "further guidance document is also available – see [https://nhmrc.gov.au/search?search=Open+access.jpg&field\\_publication\\_date=&field\\_publication\\_date\\_1=&content\\_type\\_filter=1](https://nhmrc.gov.au/search?search=Open+access.jpg&field_publication_date=&field_publication_date_1=&content_type_filter=1)

## **Australian Research Council policy**

In summary:

Both researchers and the broader community stand to benefit from the knowledge produced through publicly funded research. The ARC is committed to maximising this benefit by ensuring that the findings of ARC Funded Research are disseminated as widely as possible, in the most effective manner and at the earliest opportunity, taking into account any restrictions relating to privacy, confidentiality, intellectual property or cultural sensitivities.

The purpose of the ARC Open Access Policy is, therefore, to ensure that Research Outputs arising from ARC Funded Research are made Openly Accessible and the Metadata for those Outputs are made available to the public.

- Any Research Output arising from ARC Funded Research must be made Openly Accessible within a twelve (12) month period from the Publication Date.
- In cases where this requirement cannot be met for any reason, including legal or contractual obligations, Final Reports must provide reasons why Research Outputs derived from ARC Funded Research have not been made Openly Accessible within a twelve (12) month period.
- In all cases, Research Output Metadata must be made available to the public in an Institutional Repository as soon as possible but no later than three (3) months from the date of

Publication. Metadata must include the ARC Project ID, list the ARC as a funding source and contain a DOI or link to the Research Output.

Submission to the ANU research repository is through a simple webform at <http://www.anu.edu.au/research/access>. Repository staff will work with you to understand the copyright status of the work, comply with publisher's requirements and make it available if possible.

The ANU supports open access to research outputs and welcomes this development.

## Making copies for your research or study

You will want to make photocopies and digital copies of material that is relevant to your research. There are a range of tools that you can use to record and/or store your references material including Mendeley, Zotero and Endnote. The Library offers training in these products <https://anulib.anu.edu.au/research-learn/writing-referencing/citing-referencing-your-writing> (see The University has a license for Endnote—you can download it from Wattle at <https://wattlecourses.anu.edu.au>).

You cannot make unlimited copies of all material for your research and study. The options enabling you to copy material (works) include the following.

- You may be the copyright holder.
- The University may be the copyright holder.
- The University may have a license for use of the work/s that means that you can make a copy—the Library can check licenses for works.
- Copyright may have expired in the works.
- The works may be published under a Creative Commons license that allows for reproduction without permission.
- Reproduction falls within the fair dealing or other exceptions.
- Reproduction occurs with permission of the creator.
- You are copying an insubstantial portion of the work.

## Licensed material purchased by the University

The University Library purchases a wider range of material for the use of members of the University. Electronic resources, such as e-journals and e-books are purchased through agreements (licenses) with suppliers. The Library has a database of the licenses and can check to see if the material can be made available to your students within the conditions of the license.

## Material on the Internet

Many valuable resources are available on the Internet. Unfortunately many resources do not contain information about whether they can be reproduced or communications for research or study.

Where possible use material that is identified as Creative Commons licensed—there are a range of Creative Commons licenses and you will need to check to see if a resource can be freely copied or should just be linked to in your course material.

There are many “pirate” websites offering access to films, television programs and other material for which they do not have the right to provide access to the community. If the website has the word “pirate” on the home page beware.

Use websites where you are reasonably sure that the copyright owner has given permission for the material to be included.

Remember moral rights apply to websites as well as printed/hardcopy resources.

Just because material is on the Internet does not mean you can copy or reuse it for your students. General principles are as follows:

- Check if there is information on use on the website.
- Link to the resource.
- If this will not work ask the creator for permission.
- If you are unsuccessful in getting a response from the creator in a reasonable time you may wish to consider copying the material.

## FAQs

### Can I make a copy/communicate material (works) to another student or colleague?

You can make a copy or communicate (such as sending as an attachment electronically) under the fair dealing for purpose of research or study provision of the Copyright Act 1968.

### Can I make a copy for my research?

You can make a copy under the fair dealing exceptions of the Copyright Act 1968. You can copy limited amounts of copyright material for research or study and criticism or review. The definition of reasonable portions are in Attachment A:

Item	Work or adaptation	Amount that is reasonable portion
1	A literary, dramatic or musical work (except a computer program), or an adaptation of such a work, that is contained in a published edition of at least 10 pages	a) 10% of the number of pages in the edition; or b) if the work or adaptation is divided into chapters—a single chapter
2	A published literary work in electronic form (except a computer program or an electronic compilation, such as a database), a published dramatic work in electronic form or an adaptation published in electronic form of such a literary or dramatic work	a) 10% of the number of words in the work or adaptation; or b) if the work or adaptation is divided into chapters—a single chapter

The Copyright Act 1968 does not specify the amount you can copy from films, DVDs or other media.

You should consider the following factors if you need to copy more than a reasonable portion from a book, musical score or notated music.

- The purpose and character of the copying.
- The nature of the material being copied.
- The possibility of obtaining the material commercially.
- The effect of the copying upon the potential market for the material.
- The amount copied in relation to the whole of the source material.

For more information visit the copyright page for researchers at <http://copyright.anu.edu.au/researchers>.

### Can I reproduce materials in accessible formats?

The Copyright Act contains a number of provisions that allow material to be reproduced in accessible formats to assist people with disabilities. The Disability Services Centre (<http://disability.anu.edu.au>) and

the Library work closely together to support students who are registered with the Centre.<sup>11</sup>

Works can be copied and communicated to students with a print disability. The Copyright Act defines a print disability as:

- a person without sight
- a person whose sight is severely impaired
- a person unable to hold or manipulate books or to focus or move their eyes
- a person with a perceptual disability.

Only literary and dramatic works (or published editions) can be copied under this provision. Musical works such as sheet or notated music are not included. Literary or dramatic works and published editions can be copied in full in any required accessible format provided they are not commercially available in that format.

The print disability provisions can be used to reproduce material to assist a student for educational purposes; research and study, as well as for recreational or private use.

If you wish to reproduce material other literary or dramatic works or for other disabilities, you will need to rely on one of the other provisions.

There are particular requirements including that it is solely for the purpose of assisting students with print disabilities.

A written notice must be given to the Copyright Agency Limited (CAL) within three months informing them of the reproduction or communication and must include the following details.

- Australian National University
- Details of the work reproduced or communicated (i.e. author, title, publication details)
- Date on which the reproduction or communication was made
- 'This is a reproduction made on [day on which the reproduction was made] by the Australian National University in reliance on section 135ZQ of the Copyright Act 1968, solely for use by a person with a print disability.'
- If the reproduction is a sound recording, then this message should be included at the beginning of the sound recording.

Contact the Disability Services Centre for support and advice.

## Can I reproduce an image of an object/painting/artwork?

As noted in the 'How long does copyright last?' section of this guide, copyright in original works which are not published is perpetual. If the work is copied, for example a photograph is taken, it will not have separate copyright unless it meets the text of "originality", for example if the image was reused in a new original artwork.

If the copy/photograph is of the original work without any additional artistic work (meeting the test of originality) the image can be used in teaching if:

- the original artwork is produced under a Creative Commons license that allows for reuse;
- the University is the copyright holder;
- copyright in the artwork has expired (particularly applies to photographs); or
- permission has been granted by or on behalf of the copyright owner.

Some museums and galleries provide information on whether images/reproductions can be made of works in their collection on their website or through signs in their exhibition spaces.

If you have located an image of an artwork this does not mean that the image or reproduction can be freely used. If in doubt ask the Library staff for advice.

<sup>11</sup> <http://www.anu.edu.au/students/contacts/access-inclusion>

## Where can I find open access material to use?

Open access material and many Creative Commons licenced resources can be freely used in your work. There are a number of good starting points to locate this material including:

- Directory of Open Access Journals—[www.doaj.org](http://www.doaj.org)
- Directory of Open Access Books—[www.doabooks.org](http://www.doabooks.org)
- Directory of Open Access Repositories (OpenDOAR)—[www.openoar.org](http://www.openoar.org)
- Material in Australian open access repositories is often listed in Trove—<http://trove.nla.gov.au>
- Images can be found in:
  - Flickr—[www.flickr.com/search/advanced](http://www.flickr.com/search/advanced)—use Advanced search to select “Only search within Creative Commons-licensed content”.
  - Google images—[http://images.google.com.au/advanced\\_image\\_search?hl=en](http://images.google.com.au/advanced_image_search?hl=en)—select “free to use or share” or other free use options.

## What about works out of print?

Just because a work is out of print does not mean its copyright has expired, nor that you have the right to make unlimited copies for the world.

There are a number of options to make works or parts of works available including the following.

- You may make copies or communicate a reasonable portion for students under the statutory licence.
- You may obtain permission from the copyright holder to make the material available.
- The Library may have a license for the material that enables use in your course.

## Acknowledgments

This guide draws and was inspired by copyright guidance from the Department of Communications and the Arts, Australian Copyright Agency, Copyright Agency Limited, Queensland University of Technology, University of Melbourne and University of Sydney.

## Further information

Department of Communications and the Arts copyright pages	<a href="https://www.communications.gov.au/search?search_api_views_fulltext=copyright">https://www.communications.gov.au/search?search_api_views_fulltext=copyright</a>	
Australian Copyright Council	<a href="http://copyright.org.au">http://copyright.org.au</a>	Note the Publications series is purchased by the Library and available from the Law Library (AUS 100)
Australian Digital Alliance	<a href="http://digital.org.au">http://digital.org.au</a>	
Australian Libraries Copyright Committee	<a href="http://libcopyright.org.au">http://libcopyright.org.au</a>	
Australian Library Association	<a href="https://www.alia.org.au/advocacy-and-campaigns/copyright-and-">https://www.alia.org.au/advocacy-and-campaigns/copyright-and-</a>	The Library is a member and can access restricted content.
Australasian Performing Right Association (APRA) - Australasian Mechanical Copyright Owners Society (AMCOS)	<a href="http://www.apra-amcos.com.au">www.apra-amcos.com.au</a>	APRA-AMCOS collects and distributes royalties for the reproduction of their members' musical works.
Copyright Agency	<a href="http://www.copyright.com.au">www.copyright.com.au</a>	
Universities Australia Expert Reference Group on Copyright	<a href="https://www.universitiesaustralia.edu.au/efficiency-and-governance/information-policy-and-copyright">https://www.universitiesaustralia.edu.au/efficiency-and-governance/information-policy-and-copyright</a>	

Copyright Officer: Roxanne Missingham

Tel: 6125 2003

Email: [Roxanne.missingham@anu.edu.au](mailto:Roxanne.missingham@anu.edu.au)

## Attachment A.

### Copyright Act 1968 - Section 40 Fair dealing for purpose of research or study<sup>12</sup>

1. A fair dealing with a literary, dramatic, musical or artistic work, or with an adaptation of a literary, dramatic or musical work, for the purpose of research or study does not constitute an infringement of the copyright in the work.
  - a. (1A) A fair dealing with a literary work (other than lecture notes) does not constitute an infringement of the copyright in the work if it is for the purpose of, or associated with, an approved course of study or research by an enrolled external student of an educational institution.
  - b. (1B) In subsection (1A) the expression lecture notes means any literary work produced for the purpose of the course of study or research by a person lecturing or teaching in or in connection with the course of study or research.
2. For the purposes of this Act, the matters to which regard shall be had, in determining whether a dealing with a literary, dramatic, musical or artistic work or with an adaptation of a literary, dramatic or musical work, being a dealing by way of reproducing the whole or a part of the work or adaptation, constitutes a fair dealing with the work or adaptation for the purpose of research or study include:
  - a. the purpose and character of the dealing;
  - b. the nature of the work or adaptation;
  - c. the possibility of obtaining the work or adaptation within a reasonable time at an ordinary commercial price;
  - d. the effect of the dealing upon the potential market for, or value of, the work or adaptation; and
  - e. in a case where part only of the work or adaptation is reproduced—the amount and substantiality of the part copied taken in relation to the whole work or adaptation.
3. Despite subsection (2), a reproduction, for the purpose of research or study, of all or part of a literary, dramatic or musical work, or of an adaptation of such a work, contained in an article in a periodical publication is taken to be a fair dealing with the work or adaptation for the purpose of research or study.
4. Subsection (3) does not apply if another article in the publication is also reproduced for the purpose of different research or a different course of study.
5. Despite subsection (2), a reproduction, for the purpose of research or study, of not more than a reasonable portion of a work or adaptation that is described in an item of the table and is not contained in an article in a periodical publication is taken to be a fair dealing with the work or adaptation for the purpose of research or study. For this purpose, reasonable portion means the amount described in the item. Works, adaptations and reasonable portions.

Item	Work or adaptation	Amount that is reasonable portion
1	A literary, dramatic or musical work (except a computer program), or an adaptation of such a work, that is contained in a published edition of at least 10 pages	<ol style="list-style-type: none"> <li>a. 10% of the number of pages in the edition; or</li> <li>b. if the work or adaptation is divided into chapters—a single chapter</li> </ol>

<sup>12</sup> <http://www.comlaw.gov.au/Details/C2013C00007> Accessed 3 January 2013

Item	Work or adaptation	Amount that is reasonable portion
2	A published literary work in electronic form (except a computer program or an electronic compilation, such as a database), a published dramatic work in electronic form or an adaptation published in electronic form of such a literary or dramatic work	<ul style="list-style-type: none"> <li>a. 10% of the number of words in the work or adaptation; or</li> <li>b. if the work or adaptation is divided into chapters—a single chapter</li> </ul>

6. Subsection (5) applies to a reproduction of a work or adaptation described in both items of the table in that subsection even if the amount of the work or adaptation reproduced is not more than a reasonable portion (as defined in that subsection) on the basis of only one of those items.

7. If:

- a. a person makes a reproduction of a part of a published literary or dramatic work or published adaptation of a literary or dramatic work; and
- b. the reproduction is of not more than a reasonable portion (as defined in subsection (5)) of the work or adaptation;

subsection (5) does not apply in relation to any subsequent reproduction made by the person of any other part of the same work or adaptation.

8. Subsections 10(2), (2A), (2B) and (2C) do not affect subsection (5), (6) or (7) of this section.

## Attachment B.

### *Duration of Copyright*

#### Copyright material made before 1 January 2019 (other than Government copyright material)

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Literary, dramatic, musical works (other than computer programs) <sup>[1]</sup>	Made public before death of author	Author died before 1 January 1955 <sup>[2]</sup>	Life of author + 70 years
Literary, dramatic, musical works (other than computer programs) <sup>[1]</sup>	Made public after author's death and before 1 January 2019	Made public before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Literary, dramatic, musical works (other than computer programs) <sup>[1]</sup>	Made public after author's death and on or after 1 January 2019	Author died before 1 January 1949 <sup>[3]</sup>	Life of author + 70 years
Literary, dramatic, musical works (other than computer programs) <sup>[1]</sup>	Never made public	Author died before 1 January 1949 <sup>[3]</sup>	Life of author + 70 years
Computer programs <sup>[1]</sup>		Author died before 1 January 1955 <sup>[2]</sup>	Life of author + 70 years
Artistic works other than engravings or photographs <sup>[4]</sup>		Author died before 1 January 1955 <sup>[2]</sup>	Life of author + 70 years
Engravings <sup>[5]</sup>	Made public before death of author	Author died before 1 January 1955 <sup>[2]</sup>	Life of author + 70 years
Engravings <sup>[5]</sup>	Made public after author's death and before 1 January 2019	Made public before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Engravings <sup>[5]</sup>	Made public after author's death and on or after 1 January 2019	Author died before 1 January 1949 <sup>[3]</sup>	Life of author + 70 years

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Engravings <sup>[5]</sup>	Never made public	Author died before 1 January 1949 <sup>[3]</sup>	Life of author + 70 years
Photographs <sup>[6]</sup>		Made before 1 January 1955 <sup>[2]</sup>	Life of author + 70 years
Works where the author is unknown (other than photographs) <sup>[1]</sup>	Made public before 1 January 2019	Made public before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Works where the author is unknown (other than photographs) <sup>[1]</sup>	Made public on or after 1 January 2019 and within 50 years of being made	Made before 1 January 1949 <sup>[3]</sup>	Year first made public + 70 years
Works where the author is unknown (other than photographs) <sup>[1]</sup>	Made public on or after 1 January 2019 but not within 50 years of being made	Made before 1 January 1949 <sup>[3]</sup>	Year made + 70 years
Works where the author is unknown (other than photographs) <sup>[1]</sup>	Never made public	Made before 1 January 1949 <sup>[3]</sup>	Year made + 70 years
Photographs where the author is unknown <sup>[6]</sup>	Made public before 1 January 2019	Made before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Photographs where the author is unknown <sup>[6]</sup>	Made public on or after 1 January 2019 and within 50 years of being made	Made before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Photographs where the author is unknown <sup>[6]</sup>	Made public on or after 1 January 2019 but not within 50 years of being made	Made before 1 January 1955 <sup>[2]</sup>	Year made + 70 years
Photographs where the author is unknown <sup>[6]</sup>	Never made public	Made before 1 January 1955 <sup>[2]</sup>	Year made + 70 years
Sound recordings <sup>[7]</sup>	Made public before 1 January 2019	Made before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years
Sound recordings <sup>[7]</sup>	Made public on or after 1 January 2019 and within 50 years of being made	Made before 1 January 1955 <sup>[2]</sup>	Year first made public + 70 years

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Sound recordings <sup>[7]</sup>	Made public on or after 1 January 2019 but not within 50 years of being made	Made before 1 January 1955 <sup>[2]</sup>	Year made + 70 years
Sound recordings <sup>[7]</sup>	Never made public	Made before 1 January 1955 <sup>[2]</sup>	Year made + 70 years
Cinematograph films (made on or after 1 May 1969) <sup>[8]</sup>	Made public before 1 January 2019	n/a	Year first made public + 70 years
Cinematograph films (made on or after 1 May 1969) <sup>[8]</sup>	Made public on or after 1 January 2019 and within 50 years of being made	n/a	Year first made public + 70 years
Cinematograph films (made on or after 1 May 1969) <sup>[8]</sup>	Made public on or after 1 January 2019 but not within 50 years of being made	n/a	Year made + 70 years
Cinematograph films (made on or after 1 May 1969) <sup>[8]</sup>	Never made public	n/a	Year made + 70 years
Broadcasts <sup>[9]</sup>		n/a	Year of broadcast + 50 years
Published editions <sup>[10]</sup>		First published before 1 January 1994	Year edition first published + 25 years
Copyright material made or first published by an international organization <sup>[11]</sup>	Made public before 1 January 2019	n/a	Year first made public + 70 years
Copyright material made or first published by an international organization <sup>[11]</sup>	Made public on or after 1 January 2019 and within 50 years of being made	n/a	Year first made public + 70 years
Copyright material made or first published by an international organization <sup>[11]</sup>	Made public on or after 1 January 2019 but not within 50 years of being made	n/a	Year made + 70 years

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Copyright material made or first published by an international organization <sup>[11]</sup>	Never made public	n/a	Year made + 70 years
Editions first published by international organization <sup>[12]</sup>		First made public before 1 January 1994	Year edition first made public + 25 years

## Copyright material made on or after 1 January 2019 (other than Government copyright material)

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Works where the author is known <sup>[1]</sup>		n/a	Life of author + 70 years
Works where the author is unknown <sup>[1]</sup>	Made public within 50 years of being made	n/a	Year first made public + 70 years
Works where the author is unknown <sup>[1]</sup>	Not made public within 50 years of being made	n/a	Year made + 70 years
Sound recordings <sup>[7]</sup>	Made public within 50 years of being made	n/a	Year first made public + 70 years
Sound recordings <sup>[7]</sup>	Not made public within 50 years of being made	n/a	Year made + 70 years
Cinematograph films <sup>[8]</sup>	Made public within 50 years of being made	n/a	Year first made public + 70 years
Cinematograph films <sup>[8]</sup>	Not made public within 50 years of being made	n/a	Year made + 70 years
Broadcasts <sup>[9]</sup>		n/a	Year of broadcast + 50 years

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Published editions <sup>[10]</sup>		n/a	Year edition first published + 25 years
Copyright material made or first published by an international organization <sup>[11]</sup>	Made public within 50 years of being made	n/a	Year first made public + 70 years
Copyright material made or first published by an international organization <sup>[11]</sup>	Not made public within 50 years of being made	n/a	Year made + 70 years
Editions first published by an international organization <sup>[12]</sup>		n/a	Year edition first made public + 25 years

## Government copyright material made before or after 1 January 2019

Type of material	Factors affecting duration	Copyright expired as at 1 January 2019 if	Otherwise, duration is
Works made, or first published, by the Commonwealth, or a State or Territory <sup>[13]</sup>		Made before 1 January 1969 <sup>[3]</sup>	Year made + 50 years
Sound recordings <sup>[14]</sup>		Made before 1 January 1969 <sup>[3]</sup>	Year made + 50 years
Cinematograph films (made on or after 1 May 1969) <sup>[15]</sup>		n/a	Year made + 50 years

## Notes to tables

[1] See *Copyright Act 1968*, sections 32, 33 and 211 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). A 'literary work' includes: '(a) a table, or compilation, expressed in words, figures or symbols; and (b) a computer program or compilation of computer programs': section 10(1). A 'dramatic work' includes: '(a) a choreographic show or other dumb show; and (b) a scenario or script for a

cinematograph film; but does not include a cinematograph film as distinct from the scenario or script for a cinematograph film': section 10(1).

[2] For this copyright material, copyright expired before 1 January 2005. Generally, prior to 1 January 2005, copyright lasted until 50 years from the end of the year in which the creator died or, for some material, until 50 years from the end of the year in which the material was made or first published. As a result of the Australia-United States Free Trade Agreement, on 1 January 2005 the period of protection for most types of copyright material was extended from 50 to 70 years. If copyright had expired by 1 January 2005, copyright was not revived.

[3] Under the *Copyright Amendment (Disability Access and Other Measures) Act 2017*, new terms of protection apply to a range of copyright materials from 1 January 2019. If the application of these new terms would have the effect that copyright in material would cease before 1 January 2019, that copyright will instead cease to subsist on 1 January 2019: Schedule 2 Item 15. If the relevant term is 70 years (eg 'Life of author + 70 years'), copyright will have expired by 1 January 1949. If the relevant term is 50 years, copyright will have expired by 1 January 1969.

[4] See *Copyright Act 1968*, sections 32, 33 and 211 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). An 'artistic work' includes a painting, sculpture, drawing, engraving, photograph, building or model of a building, or work of artistic craftsmanship: section 10(1). A 'drawing' includes a diagram, map, chart or plan: section 10(1).

[5] See *Copyright Act 1968*, sections 32, 33 and 211 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). An 'engraving' includes an etching, lithograph, product of photogravure, woodcut, print or similar work, not being a photograph: section 10(1).

[6] See *Copyright Act 1968*, sections 32, 33 and 211 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). Under the *Copyright Act 1968*, the 'author' in relation to a photograph means the person who took the photograph: section 10(1). However, in relation to a photograph taken before the Act commenced (1 May 1969), the author is the individual who owned the material on which the photo was taken, unless the owner of the material was a body corporate in which case it means the photographer: section 208.

[7] See *Copyright Act 1968*, sections 89, 93 and 220 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*).

[8] See *Copyright Act 1968*, sections 90, 93, 221 and 222 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). Copyright does not subsist by virtue of section 90 in a cinematograph film made before this Act commenced (1 May 1969): section 221. Cinematograph films made before 1 May 1969 may be protected as a combination of original dramatic works, photographs, sound recordings and/or other works, for example, a script (literary work), musical score (musical work) or artistic work. Films made before 1 May 1969 are regarded as 'dramatic works' if they constitute 'a cinematograph production where the arrangement, the acting form or the combination of incidents represented gives the work an original character': sections 204 and 222.

[9] See *Copyright Act 1968*, sections 91, 95 and 223. Television broadcasts and sound broadcasts are protected separately to the underlying works, sound recordings and films being broadcast. Copyright does not subsist under section 91 in a television or sound broadcast made before the Act commenced (1 May 1969), or in a later broadcast that is a repetition of a broadcast made before the Act commenced: section 223.

[10] See *Copyright Act 1968*, sections 92, 96 and 224. A 'published edition' is a published edition of one or more literary, dramatic, musical or artistic works, and does not include an edition that reproduces a previous edition of the same work or works: section 92. Copyright in a published edition is separate from the copyright that may subsist in the works which are reproduced in the edition. Copyright does not subsist under section 92 in a published edition of a work or works where the first publication of the edition took place before the Act commenced (1 May 1969): section 224.

[11] See *Copyright Act 1968*, sections 187, 188, 188A, 236 and 237 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). This rule applies where copyright subsists in the material solely by reason of section 187 or 188 of the Act, and the material was made or first published by the

international organization on or after the Act commenced (1 May 1969): sections 236 and 237. International organizations to which the Act applies are listed in section 125 of the *Copyright Regulations 2017*.

[12] See *Copyright Act 1968*, sections 188, 188A and 237. An 'edition' is an edition of one or more literary, dramatic, musical or artistic works, and does not include an edition that reproduces a previous edition of the same work or works: section 188(3). Section 188(3) does not apply in relation to an edition published by an international organization before this Act commenced (1 May 1969): section 237(3). International organizations to which the Act applies are listed in section 125 of the *Copyright Regulations 2017*.

[13] See *Copyright Act 1968*, sections 176, 177, 179 and 180 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*).

[14] See *Copyright Act 1968*, sections 178, 179 and 180 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*).

[15] See *Copyright Act 1968*, sections 178, 179, 180 and 235 (as amended by the *Copyright Amendment (Disability Access and Other Measures) Act 2017*). Crown copyright does not subsist under section 178 in a cinematograph film made before the Act commenced (1 May 1969), but may be protected as an original dramatic work or in relation to photographs forming part of the film: section 235.