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# Digital use and educational institutions

Updated March 2009



The *Copyright Act 1968* (the Act) has undergone various changes over the years to ensure the law remains relevant and up-to-date. To cover the use of copyright works under current and future technologies, amendments were made in 2001, creating new terms on which to evaluate copyright in the digital age. On 5 December 2006 the Act was further amended to address changes in digital use by educational institutions.

This information sheet deals with those changes made in 2001 that affect educational institutions and the copying they do under the statutory licences, as well as more recent changes that have come into effect.

## Educational licence schemes

The Act contains two educational licence schemes for the copying and communication of works by educational institutions. These licences are:

### The Hardcopy licence

This licence scheme applies to copies made from a hard copy document. This can include both paper-to-paper copies and paper-to-electronic copies.

The following reproductions are within this licence scheme:

- scanning from paper; and
- re-keying paper copies and storing them in a digital medium.

The important element is that the original must be paper-based, therefore this licence does not permit reproductions from digital to digital – for this you must have the Electronic Reproduction and Communication licence.

To rely on, or copy under, the Hardcopy licence, you will need to send Copyright Agency Limited (CAL) a Remuneration Notice. This Notice must specify whether the amount of equitable remuneration is to be assessed on the basis of a full record or sampling system.

Further information on this licence scheme can be obtained from CAL's Licensing department.

### The Electronic Reproduction and Communication licence

This licence deals with an original electronic work and allows educational institutions to reproduce works in an electronic form (e.g. digital to digital, and digital to paper) and communicate copies in electronic form (e.g. posting copies on an intranet) to their staff and students. Note that the work must already be in an electronic form.

The monitoring system varies in the different educational sectors and has been operating in Universities and TAFEs since 2002 and in schools since 2005.

In summary, the electronic educational licence:

- provides for the electronic reproduction of an electronic form of a work within the copying limits of the licence;
- provides for the communication of a work in an electronic form within the limits of the licence;



## More information

Copyright Agency Limited  
Level 15, 233 Castlereagh Street,  
Sydney NSW 2000

Tel: 1800 066 844  
Fax: +612 9394 7601

Email: [info@copyright.com.au](mailto:info@copyright.com.au)  
Website: [www.copyright.com.au](http://www.copyright.com.au)



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- provides for the educational institution and CAL to agree on matters and processes constituting a monitoring system, including:
  - payment; and
  - the system of records to be kept for recording usage;
- includes literary, dramatic, artistic and musical works; and
- must be used for the educational purposes of the institution.

Material communicated:

- a. must contain the following statement;

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of [insert name of institution] pursuant to Part VB of the *Copyright Act 1968* (the Act).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

and

- b. the institution must take all reasonable steps to ensure that each communication can only be received or accessed by persons entitled to receive or access it.

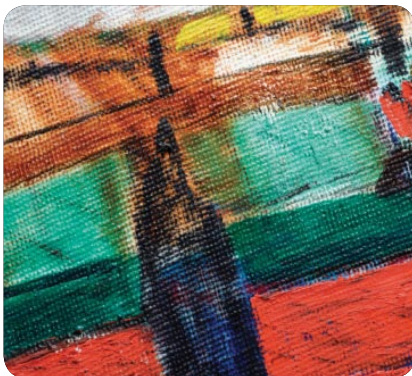
Typical uses of this licence are digital copies from digital sources such as web pages (within limits), CD-ROMs, and electronic text and graphics. In other words, this licence covers all works that are in an original electronic form.

This licence also covers copies that your institution has turned into a digital format and then wishes to electronically reproduce and communicate.

To rely on, copy or communicate under this licence you are required to send CAL an Electronic Use Notice specifying that the amount of equitable remuneration is to be assessed on the basis of an Electronic Use System.

## Requirements

- **Declared collecting society**  
As the new licence is included in Part VB of the Act, for which CAL is already the declared society, CAL administers the scheme on behalf of copyright owners.
- **Relying on the licence**  
The Electronic Reproduction and Communication licence requires the administering body (such as a State Department of Education) or the educational institution (such as an independent educational institution) to send an Electronic Use Notice to CAL.
- **Equitable remuneration**  
The legislation provides for the educational institution and the collecting society to agree upon payment rates for the Electronic Reproduction and Communication licence. If no agreement is reached, then the Copyright Tribunal will determine the rate independently.

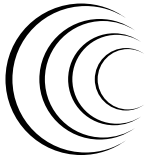


### More information

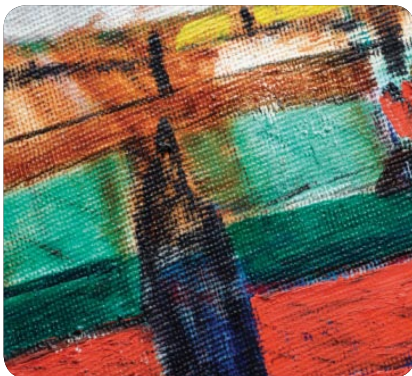
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## Which licence do we need?

Educational institutions may choose to rely on one, or both licences depending on your needs.

- To copy from paper to paper and/or paper to digital:

Educational institutions can rely on the Hardcopy Statutory Education licence under Part VB of the Act, once the institution has delivered to CAL a Remuneration Notice, choosing a sampling or records system.

- To copy from digital to digital, digital to paper and/or to communicate electronically:

Educational institutions need to undertake the Electronic reproduction and Communication Statutory Educational licence under Division 2A, Part VB of the Act, once the institution has delivered to CAL an Electronic Use Notice.

## How much can be reproduced from electronic originals?

### Literary and dramatic works

- 10% of number of words.
- All, if not separately available for purchase.
- All, if not available within a reasonable period of time.

### Periodical publications

- One article or more if the same subject matter.

### Musical works

- 10%.
- All, if not available for purchase.
- All, if not available within a reasonable period of time.

### Artistic works

- All of an artistic work.

## What will we be able to communicate?

No more than the above limits from one work can be made available at any one time.

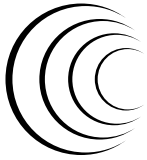
Typical methods of communication would include:

- emailing;
- making available on an inter/intranet site; or
- narrowcasting, i.e. video conferencing.

## What were the most recent changes?

On 5 December 2006, the Act was further amended to include:

- passive caching by educational bodies, involving the automatic reproduction of web pages to reduce bandwidth congestion and provide quicker access. This new provision is limited to educational institutions and does not allow for active caching where there is a deliberate selection of copyright works;
- provisions allowing copying of up to 15 pages from digital anthologies, subject to payment of remuneration;



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- a requirement that restricts remuneration-free insubstantial copying to continuous electronic text, and not disconnected segments of a digital work; and
- where there is no agreement over Records and Sampling Notices, either party can go to the Copyright Tribunal for determination.

## Which licence do you need?

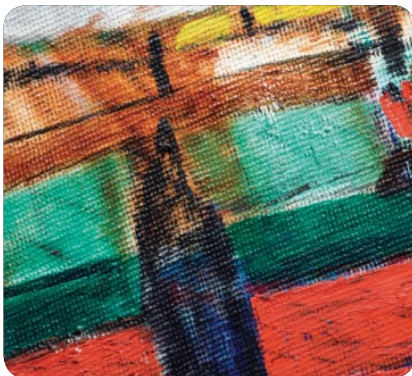
You may need one or both.

To copy from  
**paper to paper**  
or  
**paper to digital**

To copy from  
**digital to digital**  
or  
**digital to paper**  
or  
**communicate electronically**

Educational institutions need to access the  
**Hardcopy**  
Statutory Education licence under Part VB of the *Copyright Act 1968* by providing a  
**Remuneration Notice**  
based on a  
**sampling or records system notice**  
and  
**Electronic Use Notice for paper to digital**

Educational institutions need to access the  
**Electronic Reproduction and Communication**  
Statutory Education licence under Division 2A, Part VB of the *Copyright Act 1968* by providing an  
**Electronic Use Notice**



## Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works.

## Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.

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