

COPYRIGHT OFFICE

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University of Johannesburg Library and Information Centre

© Copyright User  
Manual

# COPYRIGHT AND DIGITAL RIGHTS MANAGEMENT

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# Chapter 1

# 1. Purpose of the UJ Copyright Manual

The University of Johannesburg recognises the importance of managing copyright in order to comply with the Copyright Act 98 of 1978 and regulations and in so doing to respect the rights of authors and publishers and to pay reasonable licence fees where required by law. Infringement of copyright by the University, Heads of Departments or individuals could result in legal action and possible awards of damages to the owner of the copyrighted material.

## 1.1 Explanation of the Copyright Act

The *Copyright Act 98* of 1978 currently regulates all copyright matters in South Africa and no copyright, other than that which is specifically protected by South African law, is enforceable.

## 1.2 What is Copyright

Copyright is the right of intellectual property which allows the author or owner of a literary (written) or musical work to obtain, for a limited time, the exclusive right to produce, distribute, perform, display, or license the work. The owner also receives the exclusive right to produce or license the production of derivatives of his/her work.

## 1.3 List of categories that are protected by the Copyright Act:

It includes, irrespective of the artistic merit thereof:

- novels
- stories
- poetical works
- dramatic works
- stage directions
- cinematographic film scenarios
- broadcasting scripts
- textbooks
- treatises
- histories
- biographies
- essays
- articles
- encyclopaedias
- dictionaries
- letters
- Artistic works
- Broadcasts
- Cinematograph films
- Computer programs
- Programme-carrying signal
- Sound recordings
- Published editions
- Musical works
- reports
- memoranda
- lectures
- speeches
- sermons
- tables
- compilations, including tables and compilations of data stored or embodied in a computer or a medium used in conjunction with a computer, but shall not include a computer programme

## **1.4 Requirements for copyright protection**

The Copyright Act 98 of 1978 requires the following before any claim on copyright can be made:

### **1.4.1 Inherent requirements:**

*Originality:* It is required of the author to create the work through the application of his/her skills and creativity, labour and efforts.

*Material form:* It is required that the work, with the exception of broadcasts and programme-carrying signals, must have been written down, recorded, represented as digital data or signals, or otherwise reduced to material form. Whilst a work is still a mere idea in the mind of the author, no copyright comes into existence.

### **1.4.2 Formal requirements:**

The author must be a natural person, and also a South African citizen or a citizen of a Bern Convention country, or who is domiciled or resident in South Africa, or, in the case of a juristic person, incorporated under RSA laws, or the work was first made in South Africa (this case refers to architecture erected in South Africa). In these cases the work can be copyrighted.

### **1.4.3 Ownership of copyrighted material**

The owner of a copyrighted work is generally the person who makes or creates the work, although this is not always the case. Section 21(1) of the Copyright Act 98 of 1978 regulates this matter which makes it possible for employers, proprietors of newspapers or magazines, or 'work for hire' instructors to be the owner of the work of authorship. The law is very specific in this regard in order to eliminate vagueness with the interpretation of ownership rules.

## **Chapter 2**

## 2 Reproduction for Education

Section 12(4) of the Act allows a work to be used - and this includes copied - without permission of the author for teaching purposes. This section reads as follows:

**“The copyright in a literary or musical work shall not be infringed by using such work, to the extent justified by the purpose, by way of illustration in any publication, broadcast or sound or visual record for teaching: provided that such use shall be compatible with fair practice and that the source shall be mentioned as well as the name of the author if it appears on the work.”**

2.1 The following is a list of rules governing the copying of copyrighted material for education:

2.2 Rules governing reproduction for education

1. The reproduction (wholly or in part) of short poems, articles, stories or essays is allowed within the following limitations.
    - (a) The reproduction of not more than one short poem, article, story or essay or two excerpts from the same author; or
    - (b) alternatively, the reproduction of not more than three short poems, articles, stories or essays from the same collective work or periodical volume.
  2. Reproduction must be done for the purpose of instructing a particular class during a specific term.
  3. Reproduction should not have an adverse effect on the potential market or value of the copyrighted work.
  4. Reproduction may consist in the making of a single copy or of multiple copies, under the following circumstances
    - 4.1. A single copy may be made by or for a lecturer, at his/her request, for research, teaching or preparation for teaching a class.
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- 4.2. The making of multiple copies is permissible in the following circumstances:
- (a) That not more than nine instances of such multiple copying for one course of instruction to a particular class may occur in any one term (semester); and
  - (b) That only one copy per student per course may be made by or for a lecturer, and then only for class-room use or discussion.
- 4.3. The following restrictions are applicable to points 4.1 and 4.2 above:
- (a) Copies may not be used to create or substitute anthologies, compilations or collective works;
  - (b) No copies may be made of or from works intended to be ephemeral, including workbooks, exercises, standardised tests and test booklets and answer sheets and similar ephemeral material;
  - (c) Copying may not be used as a substitute for the purchase of books, publishers' reprints or periodicals, nor may it be repeated in respect of the same material by the same lecturer from term to term.

## 3.1 Licensing for reproduction of copyrighted material

### 3.1 TRANSACTIONAL LICENSING VS BLANKET LICENCE

Transactional	Blanket
<ul style="list-style-type: none"><li>• <b>A transactional</b> licence is a one-off licence that authorises <b>specific</b> reproduction of a <b>specific</b> item for a <b>specific</b> purpose, e.g. the making of 355 copies of an article of 15 pages from the <i>South African Journal of Economics</i> for an Economics I module in a particular year. It is preceded by a detailed application, and authorisation for the proposed reproduction is granted against payment of a <b>calculated reproduction right royalty</b>.</li></ul>	<ul style="list-style-type: none"><li>• <b>A blanket</b> licence, on the other hand, is an umbrella licence issued to educational institutions against payment of a <b>fixed fee per Full-time Equivalent Student (FTES)</b>. This instrument <b>authorises</b> reproduction <b>in advance</b>, but requires <b>retrospective reporting</b>.</li></ul>

### 3.2 UJ's BLANKET LICENCE

UJ concluded a blanket licence agreement with DALRO with effect from 1 January 2006 and lecturers will in future no longer be required to apply for copyright clearance in advance, but only to **report** retrospectively on copying. Reporting must be done on DALRO's Reprographic Reproduction Report Forms, (see Annexure 1) which are available in the library and information centre's web page. Reporting must be done in the month the copying took place.

The blanket licence authorises copying on the “licensed premises”, i.e. the building or buildings, owned or leased by the Licensee (UJ) for purposes of education and research. It should be evident from this that copying taking place on other premises, e.g. at so-called “copy shops” does not qualify for copyright clearance under UJ’s blanket licence, except if a specific agreement between such a business and the University exists.

### 3.2.1 WHAT IS AUTHORISED IN UJ’S BLANKET LICENCE?

- 1 In essence the blanket licence authorises five forms of copying or dissemination:
  - a) **Course packs or readers**, i.e. compilation works containing extracts from a variety of published sources, distributed to students;
  - b) **Single-item Handouts**, i.e. journal or magazine articles or extracts from books in excess of the reproduction quota determined by the Regulation (section 13 of the Copyright Act);
  - c) **Transient** (for the duration of the course or module) **electronic copies** for printing out substantially identical paper copies, either by lecturers, or by the students themselves. A typical example of this is the posting of works on any of UJ’s password-protected, secure internal networks;
  - d) Placing of **copies** (single items and/or compilation works) **in the library’s short-loan section** (i.e. on reserve) for on-copying by students;
  - e) Alternative-format copies for visually impaired persons.

3.2.1 The extent of copying under a blanket licence should be as follows

1. From a **book**, a maximum of **one chapter**, if the book is divided into chapters, or **approximately 10%** if there is no chapter division;
2. From a **journal or magazine**, the **complete article** (one or up to 10%) required;
3. From a collection of **law reports or statutes**, the **complete report or statute** (one or more);
4. From an anthology or volume of **short stories or poetry**, the **complete short story** or the **complete poem**;
5. There is no limitation on the **number** of copies which may be made, or on the **number of times** copies may be made, provided that the **extent** of the reproduction is not exceeded.

### 3.2.3 HOW SHOULD LICENSED REPRODUCTION BE REPORTED?

- 1 Each item which is distributed to students as part of a course pack or single handout. For reporting purposes, the number reproduced is obviously the **number of course packs or single handouts made**.
- 2 Each item posted on any of UJ's secure internal networks. For reporting purposes, the number reproduced is the **number of students enrolled for the specific course or module**, in other words, the **potential reproduction** of the authorised transient electronic copy.
- 3 Each item placed on reserve in the library's short-loan section in **copied form** (not original published editions!) for possible (or recommended) on-copying by students. For reporting purposes, the number reproduced is the **number of students enrolled for the specific course or module**, in other words, the **potential reproduction** of the authorised reserve shelf copy (ies)<sup>1</sup>.
- 4 In addition to the information relative to the reproduction (**number of pages** and **number of copies of those pages**), the reporting form should contain the necessary bibliographical details:
  - 5 **Title of the publication**, i.e. book, journal, magazine, etc.;
  - 6 **Title of the article**, if reproduction is from a journal or magazine;
  - 7 **ISBN of book**, or **ISSN of journal/magazine**;
  - 8 **Author(s)/editor(s) of the book** or **author(s) of the article**;

### 3.2.5 WHAT HAPPENS IF A LARGER PORTION OF A BOOK IS REQUIRED FOR REPRODUCTION?

- 1 Should **more** than one chapter (or 10%) of a book be required, please contact the copyright officer to assist in making a transactional application to DALRO.
- 2 There may be cases where DALRO would be able to justify extended reproduction from a book under the blanket licence. However, if this is not possible, reproduction of a larger portion of a book may not go ahead before special permission has been obtained.

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<sup>1</sup> **Note:** The library will report on items placed on the short loan (Reserved) Shelf and Electronic Course Reserves as a service to lecturing staff, if they (staff) provide reporting forms when requesting items to be reserved.

### **3.2.6 PROCEDURE TO OBTAIN COPYRIGHT PERMISSION**

Please follow these steps when placing copies of a copyright-protected prescribed (or recommended) work on reserve shelf for further use by students or for use in a study guide, handout or other study material, for placement on Web-CT or for personal use:

1. Staff members fill in the DALRO form (which can be obtained on the UJ library website or the copyright office) and send it to the copyright officer.
2. Since DALRO has the right to grant copyright permission on behalf of most publishers, direct negotiations by UJ with representatives of such publishers in this regard is not valid
3. If the copyright permission applies to study material for the reserve shelf, it is submitted with the photocopies (made by the lecturer) to be placed to the Library's Lending Service. The Lending Service may not place any photocopies on the reserve shelf without proof of the DALRO permission.

### **3.2.7 PUBLISHERS THAT DO NOT FALL UNDER DALRO**

If you use publications of publishers not appearing on DALRO's list, please apply to the relevant publisher and provide the Library's Lending Service with a copy of your application and the permission letter. The copyright office can advise you in this regard.



#### 4. **BLANKET LICENCE – EXCLUDED WORKS**

##### 4.1 **SOUTH AFRICA - All publications published by the following;**

Bible Society of SA  
Brenthurst Press (Pty) Limited  
Zachen Publishers (Pty) Limited  
Newspaper companies

##### 4.2 **THE UNITED KINGDOM - All publications published by the following:**

Addison-Child, Peter  
Agra (Europe)  
Amnesty International  
Anbar Publications Ltd  
Association of Commonwealth Universities  
Avanti  
BBC Publications (All periodicals and journals, all BBC books are covered by the licence)  
Berlitz  
BPP Publishing  
British Psychological Society (All Open Learning Units)  
British Standards Institution  
British Telecom  
Butterick Company  
Case Clearing House  
Chapter 3 Publications  
Checkmate Publications Ltd  
Chidwall University Press  
Company of Biologists  
Computational Mechanics Publications  
Conde Nast Publications Ltd  
Consumers Association  
Conway Maritime Press Ltd  
Croner Publications Ltd  
Duke of Edinburgh Awards  
EETAS Publications  
Encounter Ltd  
Encyclopedia Britannica International Ltd  
Environmental Data Services Ltd  
Erlbaum (Laurence) & Associates  
ESDU Internataional

Eternal Books  
Euromonitor  
Eyre & Spottiswoode Publishers  
Financial Times Magazines  
Gibson (Robert) & Sons  
Gordon & Breach Publishers Ltd  
Grandreams  
Incomes Data Services Ltd  
Independent Television Publications Ltd  
Journal of Bone & Joint Surgery  
Leckie & Leckie Publishers  
Legal and Commercial Publishing  
LWWF  
Manchester Open Learning  
Marcham Manor Press  
MBS Publications  
Melrose Film Publications Ltd  
Methodist Publishing House  
Minstrel (Kingsway)  
Intel Marketing Intelligence  
Monitor Press  
NFER-Nelson Publishing Co  
North Manchester College  
Nursing Notes  
Office of Health Economics  
Online Publications  
Oxford Psychologists Press Ltd (All tests, manuals, norm tables and keys)  
Palladian Publications  
Philograph Publications  
Phonic Blend Systems  
Pion Ltd  
PLC Publications  
Plessey Co PLC  
The Readers Digest Association Ltd  
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Saville & Holdsworth (All tests, manuals, norm tables and keys)  
Stockwell  
Sweet & Maxwell (Scottish Universities Law Institute Series)  
Taylor Graham  
Teeline Publications  
Thames Gateway College  
Thomson (DC) & Co Ltd  
Timber Research & Development Assoc  
University of Aberdeen  
Video Arts Ltd  
Whitehall Press

**4.3 THE UNITED STATES - All publications published by the following:**

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American Institute of Chemists Inc  
American Psychological Association (Books)  
Drug Policy Research Institute Inc  
Dushkin Publishing Group Inc  
Globe Newspaper Company (MA)  
Gordon & Breach Science Publishers  
Guard Publishing Company  
High-Impact Marketing Services  
Kona Communications Inc  
Lexington Books  
Little, Brown Publishing Company (Trade)  
M E Sharpe Inc  
National Fire Protection Association  
National Science Foundation  
New England Publishing Group Inc  
Newkirk Products Inc  
Newsweek Inc  
Sewanee Review  
Success Unlimited  
Tiger Publications



**ANNEXURE 1**



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**APPLICATION FOR A TRANSACTIONAL LICENCE  
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**A. GENERAL INFORMATION**

1. Copies to be made by (Name of Institution)  2. Contact numbers for Applicant  
Tel (.....):..... Fax (.....):.....

3. Course of Study for which the Copies are to be made  4. Department

5. Name of Academic Staff Member teaching the Course of Study

6. When are the Copies to be made? Month  Year

7. Complete **ONLY** (a) **OR** (b) **OR** (c)  
a) If Copies are to be made as a **Single Item Handout**, or for the compilation of a **Course Pack**, how many Handouts or Course Packs will be made?   
b) If Copies are to be made to be placed in the Library's **Short Loan Collection**, how many Copies will be made for the Short Loan Collection, and how many Students are enrolled for the Course of Study for which the Copies will be made?  
Number of Copies to be made for the Short Loan Collection  Number of Students enrolled for the Course of Study   
c) If the Copies are to be made by means of a **Transient Electronic Copy**, how many Students are enrolled for the Course of Study?

8. Complete **ONLY** (a)(i & ii) **OR** (b)(i & ii)  
a) **Book:**  
i) Number of Pages — with Page Numbers — of the Chapter or Extract to be Copied  ....., from Page.....to Page..... inclusive  
ii) Number of Pages of the entire Book

b) **Serial Publication:**  
i) Number of Pages of the Article to be Copied   
ii) Title of the Article to be Copied

**B. DETAILS OF THE BOOK or SERIAL PUBLICATION FROM WHICH THE COPIES ARE TO BE MADE**

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2. Author(s) **OR** Editor(s) **OR** Compiler(s) of the Book or Author(s) of the Article from the Serial Publication

3. ISBN of the Book or ISSN of the Serial Publication  4. Publisher of the Book (refer to the imprint page) or Publisher of the Serial Publication

5. Country of origin of the Book or Serial Publication (i.e. where published, e.g. South Africa, United Kingdom, United States, etc.)

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