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.
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

<table>
<thead>
<tr>
<th>Transactional</th>
<th>Blanket</th>
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- A transactional licence is a one-off licence that authorises specific reproduction of a specific item for a specific purpose, e.g. the making of 355 copies of an article of 15 pages from the *South African Journal of Economics* 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 calculated reproduction right royalty.

- A blanket licence, on the other hand, is an umbrella licence issued to educational institutions against payment of a fixed fee per Full-time Equivalent Student (FTES). This instrument authorises reproduction in advance, but requires retrospective reporting.

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)\(^1\).

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.

\(^1\) 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 International
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)
Mintel 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
RIBA Publications Ltd (All forms published by RIBA on behalf of the Joint Contracts Tribunal)
Royal Meteorological Society
RSA Examinations Board
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:

Abby Communications
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
A. GENERAL INFORMATION
1. Copies to be made by (Name of Institution) 
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   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? 
5. 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 
      …………………….. Pages, 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
1. Full Title of the Book or Full Title of the Serial Publication 
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.)