

Copyright Policy

Section 1 - Purpose and Context

(1) This document explains the University's expectations regarding the use of third party copyright material for educational and non-commercial purposes. It contains detailed procedures and guidelines to inform and support staff and students in minimising the risk of copyright infringement and in meeting the legal obligations imposed by the [Copyright Act](#), 1968 (the Act) and various related agreements and licences that the University is a party to.

(2) The principles and requirements set out in this policy apply to staff, students and other official representatives of the University.

(3) This policy should be read in conjunction with the [Intellectual Property Policy](#), [IT Acceptable Use of Resources Policy](#), [Email Policy](#) and [Web Publishing Policy](#). Refer to the Intellectual Property Policy for UWS policy regarding the commercialisation of Copyright material. Students should refer to the [Misconduct - Student Academic Misconduct Policy](#) and [Misconduct - Higher Degree Research Candidate Misconduct in Research Policy](#) with respect to third party copyright material and plagiarism.

Section 2 - Definitions

(4) For the purpose of this policy:

- a. copyright - refers to the "exclusive right, granted by law for a certain term of years, to make and dispose of copies of, and otherwise to control, a literary, musical, dramatic, or artistic work" as defined in the Macquarie Dictionary, Second Revision, 1987, The Macquarie Library. Refer to Section 5, Part M for a more detailed explanation of copyright.
- b. copyright holder - refers to the person, group or organisation that holds the copyright for the material.

Section 3 - Policy Statement

General Principles and Obligations

(5) The University of Western Sydney aims to conduct its business activities and daily operations in a manner that recognises and supports compliance with copyright legislation and the protections afforded to copyright owners under that legislation.

(6) In keeping with this objective, the University expects its staff, students and other official representatives to comply with all applicable legal requirements pertaining to copyright and to take appropriate action to minimise the risk of infringement whenever dealing with third party copyright material, thereby avoiding legal and other punitive actions.

(7) To comply individuals must:

- a. ensure the use of any third party copyright material at the University, for educational or non-commercial purposes, falls within the provisions of the [Copyright Act](#) and minimises the risk of copyright infringement;

- b. ensure that the printing, downloading, copying, file sharing and communicating of third party copyright material does not infringe copyright and or be considered as "piracy" of material, especially when using web based text, images, music, videos, movies, protected sound recordings, computer programs and other material.
- c. meet the moral rights provisions of the [Copyright Act](#) Moral rights include the right of attribution of authorship, right not to have authorship falsely attributed and a right of integrity of authorship (which may include a right not to have work distorted or modified);
- d. minimise the risk of copyright infringement when transmitting, caching, hosting and linking to third party copyright material when using UWS facilities and services; and
- e. comply with the terms and conditions of computer software licences, electronic databases and other commercially purchased material that are used within the University ; as well as
- f. complying with the specific legal obligations detailed below.

(8) Detailed procedures are provided in Section 4 of this document to assist individuals to manage third party copyright material in a lawful and efficient manner. Staff, students and other official representatives of the University are expected to:

- a. adhere to the procedures detailed in Section 4 of this document whenever dealing with third party copyright material;
- b. comply with other requirements detailed or explained in this document; and
- c. obtain further advice/clarification from the University's Copyright Officer prior to using copyright material if:
 - i. the relevant part of the [Copyright Act](#) has been subject to recent amendments that might impact on educational activities (refer to the Copyright - Recent Amendments Guide for details of recent amendments); or
 - ii. having done all of the above, any uncertainty remains.

(9) The University's Copyright Officer may issue advice to minimise the risk of copyright infringement upon request or where they otherwise become aware of a potential infringement. This advice must be acted upon.

(10) Staff and students who breach the requirements set out in this policy may be considered to have committed misconduct or serious misconduct and may, where it is not appropriate to reach resolution by other means, find themselves subject to disciplinary proceedings.

Specific Legal Obligations

(11) In addition to the general obligations outlined above, staff and other official representatives of the University must comply with a number of key licences and provisions of the [Act](#). The following are the key licences which impact on the use of third party copyright material at UWS:

- a. Statutory Licences:
 - i. Part VB licence which allows for the multiple copying and communication of specific amounts of third party copyright material (print and graphics) for educational purposes; and
 - ii. Part VA licence which allows for the copying and communication of broadcasts.
- b. Commercial Licence:
 - i. Music licence agreement which allows for the use of Music at UWS events, Music-On-Hold, and certain copying and communication of sound recordings for educational and teaching purposes.

(12) The Statutory Licences represent an agreement between the University sector and the two Copyright Collecting Societies:

- a. Copyright Agency Limited (Part VB: print and graphic material-copying and communication) and;
- b. Screen rights (Part VA: broadcasts- copying and communication), who act on behalf of copyright owners.

(13) The Music Licence is an a commercial agreement between the university sector and the following music societies, Australasian Mechanical Copyright Owners Society (AMCOS), Australasian Performing Right Association Ltd. (APRA), Australian Record Industry Association (ARIA), and Phonographic Performance Company of Australia (PPCA). The Music licence agreement allows certain copying and communication of sound recordings for educational and teaching purposes.

(14) The following are key provisions of the [Copyright Act](#), 1968, which impose obligations that impact on the use of third party copyright material at UWS:

- a. Fair Dealing Exceptions
- b. Insubstantial Portions of a Work
- c. The Performance of Works, Sound Recordings and Films in Class for Teaching Purposes
- d. Moral Rights - the Right of Attribution and the Right of Integrity
- e. Extension of the Term of Copyright from Life of the Author Plus 50 Years to Life of the Author Plus 70 Years
- f. Safe Harbour Provisions
- g. Technological Protection Measures
- h. Students with a Print Disability

Section 4 - Procedures

Part A - Minimising the Risk of Copyright Infringement

(15) The following procedures set out requirements for the use and management of various types of copyright material. They have been developed with a view to minimising the risk of copyright infringement and must be followed except where the relevant part of the [Act](#) has been subject to a recent amendment. Where the relevant part of the Act has been amended advice must be sought from the University's Copyright Officer prior to using the copyright material. Refer to the Copyright - Recent Amendments Guide for up-to-date information regarding recent amendments to the Act.

Part B - Copyright Act, Part VB Licence

Providing Online Access to Third Party Copyright Materials

Digital Copyright Repository and WebCT

(16) The University continues to develop systems to ensure that no infringement of copyright occurs and the conditions of its Licences are complied with. A significant part of this management is the UWS Digital Copyright Repository for print and graphic material that fall under the Part VB Statutory Licence.

(17) The Digital Copyright Repository provides centralised storage for all digitised third party copyright print and graphic material used for educational purposes and made accessible via WebCT, the Library's electronic reserve and other UWS password protected School sites.

(18) Material stored in the Digital Copyright Repository server can be accessed via links placed in WebCT, the Library's electronic reserve and other School web sites.

(19) Third party copyright material that falls under the Part VB Statutory Licence provisions (see clause 21), must not

be directly uploaded to WebCT, a Unit Web site, or any other UWS Web site. The material must be lodged for placement in the Digital Copyright Repository (see Clause 27).

Material that Can be Uploaded Directly to WebCT

(20) The following material may be uploaded directly to WebCT:

- a. Material in which copyright is held by UWS.
- b. Material in which you are the copyright holder.
- c. Material that is out of copyright:
 - i. The term of copyright protection has changed to life of the author plus 70 years or 70 years from first publication.
 - ii. The Australian Copyright Council's " Information Sheet - Duration of Copyright" provides more information on the term of copyright.
- d. An insubstantial portion (usually 1 or 2 pages) of a literary or dramatic work in hardcopy form or in electronic form (usually 1% of the total number of words). Refer to Clause 54 for more details about the insubstantial portion provision.
- e. Material in which a written clearance from the copyright owner has been given to communicate the material via WebCT or another UWS web site.
- f. Material that has an express licence to copy and or communicate without the risk of infringement or payment.
- g. Material that has a Creative Commons Licence and or specific terms and conditions of use that absolutely indicate that the material can be copied and communicated without the risk of infringement or payment.
- h. URLs to web-based material however students must not be directed to websites that contain infringing copyright material.
- i. Articles from the Library's Databases must not be uploaded to WebCT
 - i. deeplinks links to articles within the databases can be provided by the Copyright Officer for placement into WebCT and/or contact the Library for placement of deeplinks in the Library's electronic reserve.

Material that Cannot be Uploaded Directly to WebCT

(21) The following material cannot be uploaded directly to WebCT, but must be lodged into the Digital Repository in accordance with the procedure set out in Clause 27, for access via WebCT and/or other School web sites:

- a. Journal articles—print or web based journals :
 - i. A scanned article from a single print journal issue.
 - ii. Two or more scanned articles from a single journal issue if the articles are on the same subject matter.
 - iii. A downloaded article from a single journal issue available on the Web or two or more on the same subject matter from a single journal issue. Articles must not be downloaded from the Library's Electronic Databases and placed in WebCT.
- b. Books:
 - i. A scanned chapter or 10% of the total number of pages from a book, whichever is greater. Only 1 chapter or 10% of a work, whichever is greater, can be made available in digital form at any given time across UWS.
 - ii. Scanned pages that are more than 10% of a literary or dramatic work, where the Copyright Officer has identified that the work is not commercially available within a reasonable time at an ordinary commercial price.
- c. Artistic Works:
 - i. Lecture notes, powerpoint presentations and other material containing third incidental artworks such as

charts, illustrations, photos, images, graphs, etc; copied from both hardcopy and or electronic/web sources.

- ii. Standalone graphic if it has not been separately published and is not available for purchase within a reasonable time at an ordinary commercial price.
- iii. Graphics with supporting text from both hardcopy sources
- iv. Artistic works from websites

d. Web based material:

- i. 10% of the total number of words from a specific document on a web site.
- ii. One chapter from a work that is divided into chapters on a web site.

(22) If any prohibited material is currently uploaded in WebCT and/or other UWS web sites, it must be taken down and lodged into the Digital Repository. Procedures for lodging information in the Digital Repository are provided in clause (27).

UWS Off-Shore Units and WebCT

(23) If third party copyright material is required for an UWS Off-Shore unit or course, the material must be lodged for placement in the UWS Digital Copyright Repository before being made accessible via WebCT;

(24) Third party copyright material must not be uploaded to an Off-Shore server for UWS Off-Shore students to access.

Exams and WebCT

(25) Exams containing any third party copyright material must not be made available via WebCT. Please contact the Copyright Officer if you require an exam to be accessible via WebCT.

(26) Copying third party copyright material for exams is covered by Section 200 (1) (b) Of the [Copyright Act](#), 1968. The copying must be only in hardcopy or placed on a CD-ROM/DVD.

Lodging Material into the Digital Copyright Repository

Lodging Materials for Access via WebCT

(27) The Copyright Officer is responsible for uploading material into the Digital Copyright Repository. Accordingly, anyone wishing to lodge material in the Repository must forward that material, in electronic format, to the Copyright Officer, clearly stating that they are applying to have the material lodged in the Digital Copyright Repository for use in WebCT.

(28) On receipt the Copyright Officer will verify that the material meets the copyright requirements and the material will be processed accordingly.

(29) Where the material is suitable for lodgement in the Repository, the Copyright Officer will:

- a. upload the material;
- b. notify the applicant that the material is uploaded; and
- c. provide the applicant with the relevant URL (web link) for the material for placement on WebCT.

(30) If the material is not suitable for lodgement in the Repository the Copyright Officer will inform the applicant and recommend other options to make the material accessible, if available.

Lodging Materials into the Library's e-Reserve

(31) Refer to the Library's Reserve Collection information on [Placing Items in the Reserve Collection](#)(Including items

for E-reserve).

Providing Offline Access to Third Party Copyright Materials

(32) Offline access includes provision by way of readers and other courseware materials, in hardcopy and/or electronic formats. Use of third party copyright material in readers and other courseware material is covered by the Part VB "Hardcopy" Statutory Licence for reproducing print and graphic material for educational purposes.

(33) In using third party copyright material for readers, and other courseware material, staff must ensure that:

- a. all material used is appropriately attributed;
- b. appropriate copyright notices are used in the publication; and
- c. the limits that apply to the amounts of copying, as follows, are adhered to:
 - i. Journal articles—print or web based journals
 - One article from a single journal issue
 - Two or more articles from a single journal issue if the articles are on the same subject matter
 - Articles from journals in the library's electronic databases if the licence allows their use in a hardcopy reader
 - ii. Books:
 - One chapter or 10% of the number of pages of a book, whichever is greater.
 - More than 10% can be copied if the book is not available commercially within a reasonable time at an ordinary commercial price. In such instances, please refer the work to the Copyright Officer for verification of its availability.
 - An insubstantial portion (usually 1 or 2 pages) of a literary or dramatic work in hardcopy form or in electronic form (usually 1% of the total number of words). Refer to Clause 54 for more details about the insubstantial portion provision.
 - iii. Web based material:
 - 10% of the total number of words from a specific document on a web site.
 - One chapter from a work that is divided into chapters on a web site
 - iv. Artistic works
 - Artistic works which explain or illustrate text from hardcopy sources.
 - Standalone artistic work if it has not been separately published and is not available within a reasonable time at an ordinary commercial price
 - Artistic works from websites
 - v. Explicit and or written permission
 - Material where written permission has been obtained from the copyright holder to use the material in a reader (see Part K).
 - Material from websites where there is an explicit statement indicating that the material can be used for educational purposes and or for non-commercial purposes within an organization without payment.
 - Material that has a Creative Commons Licence or other "Conditions of Use" indicating that the material can be copied without payment.

(34) When pricing Readers that incorporate third party copyright material there should be no intention to make a profit on the Readers which are sold, as this would place UWS in breach of the [Copyright Act](#).

(35) Each reading placed on a CD-ROM, other electronic forms of storage or sent via email or other technological means to students must contain the following electronic notice before the reading is accessed:

"COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of the University of Western Sydney 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."

Readers, Courseware and UWS Off-Shore Units

(36) All third party copyright material used for readers, CD-ROMs and other courseware material for UWS Off-shore programs must be copied and communicated in Australia, in accordance with the provisions of the Part VB Statutory Licence and any other applicable University policies and procedures.

(37) It is important that staff understand that the Part VB Statutory Licence only applies to copying and communication that takes place in Australia. If copying and communication takes place overseas it is subject to the copyright laws of the country where the activity takes place. Accordingly, third party copyright material used for readers, CD-ROMs and other courseware materials is not to be copied or communicated from an overseas location under any circumstances.

(38) Under the provisions of the Part VB Statutory Licence, third party copyright materials for UWS Off-shore programs may only be distributed to UWS employees and students. They are not to be distributed to other parties under any circumstances.

Part C - Copyright Act, Part VA Licence

Radio, Television, Cable and Satellite Broadcasts

(39) The Part VA Statutory Licence allows the copying and or communication of television, radio, cable and satellite broadcasts for educational purposes. For information relating to the screening of commercial and/or borrowed videos, films, DVDs and sound recordings during lectures and or tutorials, refer to Part E, below.

(40) As a result of an Agreement entered into by AVCC in July 2001, staff will no longer be required to keep full records of audio-visual copying unless UWS is in a sampling period. This is likely to be for a 6 or 12 week period once every 4 or so years.

(41) The Part VA Licence allows the:

- a. copying and communication of television, radio, cable and satellite broadcasts for educational purposes;
- b. copying podcasts of Australian broadcasts that are placed online by the broadcaster;
- c. copying podcasts of overseas broadcasts where the host country is a signatory to the Rome Convention for the

Protection of Performers, Producers of Phonograms and Broadcasting Organizations. Note that not all countries are signatories to the Rome Convention. Accordingly, prior to acting individuals should check the World Intellectual Property Organisation, [Rome Convention Contracting Parties](#) web page to confirm the status of the relevant country;

- d. making of compilations of copied broadcasts for educational purposes;
- e. making of electronic copies of television, radio, cable and or satellite broadcasts accessible via WebCT, podcasts, CD-ROMs or other electronic formats only for educational purposes;
- f. showing of a recorded broadcast to UWS Off-Shore students.

(42) Broadcasts can be copied for preview purposes, enabling one to decide whether or not the copy should be retained for educational purposes. After 14 calendar days from the day the copy was made, it must be decided whether the copy is kept or wiped. If the copy is kept, it must be appropriately marked.

(43) The Part VA Licence does not cover:

- a. The copying, communication and format conversion of commercially hired or purchased films, videos and DVDs.
 - i. Permission must be obtained from the relevant copyright holders to copy such material and or to place online via WebCT.
- b. The copying and placement of web based streaming material, podcasts and news feeds, except where the material is a broadcast that has been placed online by the broadcaster.
 - i. Permission must be obtained from the relevant copyright holders to copy such material and or to place online via WebCT.
 - ii. Links to podcasts and other web based streaming material can be placed in WebCT.
 - iii. Students must not be directed to websites that contain infringing copyright material.

Copying TV, Radio, Cable or Satellite Broadcasts for Educational Purposes

(44) Broadcasts can be copied in analog (e.g. cassettes, video tapes) or digital formats (e.g. DVD). Depending on the method used, copyright requirements and procedures may vary. It is therefore important that the correct procedure is followed.

Analog Copies

(45) Staff may copy the broadcast themselves, using their personal equipment or using University equipment. Alternately staff may log a request for a broadcast to be recorded via the IT Service Desk.

(46) Regardless of who undertakes the copying of the broadcast the container or cassette must be marked with the following label as prescribed by the Part VA Regulations. Where Information Technology Services undertake to copy to the broadcast they are responsible for ensuring the label is completed and applied. In all other instances the individual is responsible for the labelling.

"Made for University of Western Sydney's educational purposes under Part VA, [Copyright Act](#), 1968.

Date of broadcast

Date this copy was made"

Digital Copies

(47) Staff may copy the broadcast themselves, using their personal equipment or using University equipment.

Alternately individuals may seek assistance via the IT Service Desk.

(48) Regardless of who undertakes the copying, broadcasts copied onto a CD-ROM, DVD, or any other non-Analog formats must be attributed appropriately. Where Information Technology Services undertake to copy to the broadcast they are responsible for ensuring appropriate attribution. In all other instances the individual is responsible for the attribution.

(49) Whenever providing access to digital copies of materials, the following prescribed notice must be displayed either before or at the same time as the material appears on screen:

"COMMONWEALTH OF AUSTRALIA
Copyright Regulations 1969

WARNING

This material has been copied and communicated to you by or on behalf of University of Western Sydney pursuant to Part VA of the [Copyright Act](#) 1968 (the Act). The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright or performers protection under the Act.

Do not remove this notice."

Part D - Music Licence

(50) The University of Western Sydney, in conjunction with the Australian Vice Chancellors Committee and other universities, has entered into an agreement with the following music societies, Australasian Mechanical Copyright Owners Society (AMCOS), Australasian Performing Right Association Ltd. (APRA), Australian Record Industry Association (ARIA), and Phonographic Performance Company of Australia (PPCA).

(51) The music licence agreement covers the copying and communication of musical works for educational purposes. The agreement concludes on 31st December 2010. UWS expects staff to abide by the provisions of this agreement.

(52) The provisions of the music licence enables UWS to undertake the following activities:

- a. make audio recordings of AMCOS Works and ARIA Sound Recordings in any Format for the educational purposes of the UWS, provided the audio recordings are:
 - i. intended to be played at a UWS Event;
 - ii. of a UWS Event;
 - iii. provided to students and staff for analysis by students and/or staff as part of a course of instruction,
 - iv. or any other classroom related and based activities.
- b. make video recordings of AMCOS Works and ARIA Sound Recordings in any Format for the Educational Purposes of UWS provided the video recordings are:
 - i. of a UWS Event; or
 - ii. made by the Students and/or Staff as part of a course of instruction and is only played at a UWS Event;
- c. authorise students or staff of UWS to make video recordings of AMCOS Works and ARIA Sound Recordings performed at UWS Events in any Format for their own private and domestic purpose;
- d. synchronise AMCOS Works and ARIA Sound Recordings with audio or video recordings for the educational

purposes of the UWS;

- e. use APRA Works and PCCA Sound Recordings for music on hold;
- f. perform in public APRA Works and PCCA Sound Recordings for the educational purposes of the UWS;
- g. perform in public APRA Works and PCCA Sound Recordings at UWS Events.
- h. make recordings accessible via WebCT for listening purposes only and the required marking requirements:

(53) Recordings that can be communicated via WebCT are:

- a. Audio recordings of AMCOS Works and ARIA Sound Recordings for educational Purposes.
- b. Video recordings of AMCOS Works and ARIA Sound Recordings for educational purposes.

(54) An important requirement of the Agreement is that Sound recordings placed online via WebCT must be only for listening purposes - downloading is not to be permitted.

(55) The Music Licence Agreement does not include the following activities. The following activities must not occur:

- a. Copying musical scores.
- b. Sound recordings can only be provided via WebCT for listening purposes - downloading is not to be permitted.
- c. Reproducing cinematographic film.
- d. Broadcasting a musical work or sound recording.
- e. The copying or performance of music (sound or video) in relation to Grand Right Works, Choral works of more than 20 minutes, Dramatic Works, and ballet.
- f. Musical works not covered by music societies and publishers that are party to the agreement (ARIA, AMCOS, APRA, and PCCA and their members).

(56) During the life of the Music agreement, an annual survey of Music placed online will take place during October. Survey is coordinated by the Copyright Officer.

Placing Sound Recordings Online

(57) In making sound recordings available via WebCT or a School server , the recording (or file heading) must display the following information:

- a. the title of each musical work;
- b. the name of each composer, lyricist and arranger of the musical work; and
- c. if the recording is an ARIA Sound Recording, the artist/group name, and the record company label.

(58) All copies must contain the following copyright notice:

"Music Licence Agreement Copyright Notice

This recording has been made by the University of Western Sydney under the express terms of an educational licence between it, ARIA, AMCOS, APRA and PCCA and may only be used as authorized by the University of Western Sydney pursuant to the terms of that licence."

Part E - Copyright Act - Section 28

(59) Section 28 of the [Copyright Act](#) allows UWS staff to perform (show) and communicate via live streaming, literary, dramatic and musical works, film and sound recordings, broadcasts and artistic works during lectures, tutorials and

workshops, provided that the performance and communication:

- a. is given in the course of educational instruction;
- b. is given by a teacher;
- c. is not given for profit; and
- d. the audience is limited to persons who are taking part in the instruction or are otherwise directly connected with the place where the instruction is given.

(60) Section 28 does not cover the reproduction (copying) of commercial material. Commercial audio-visual material must not be captured in an i-lecture for delivery to students via podcasts, streaming and or placement on WebCT.

(61) Audio-visual material that can be placed in a podcast or on WebCT for students to access are:

- a. copies of broadcast material made under the Part VA Licence (Refer to Part C). The appropriate Part VA Notice must be read.
- b. excerpts from a text pursuant to the Part VB Licence (Refer to Part B). The appropriate Part VB Notice must be read.
- c. material where the permission of the copyright holder has been obtained.
- d. audio-visual material available on the internet where explicit permission is given to reproduce and communicate such material for educational or training purposes.

Part F - "Insubstantial Portion" of a Literary or Dramatic Work

(62) Sections 135ZG and 135ZMB of the [Copyright Act](#) allows multiple copies of "insubstantial portions" of a literary or dramatic work, to be copied or communicated for educational purposes.

(63) The copying must be carried out within UWS and communication of the material must be via WebCT.

(64) For a hard-copy work, an insubstantial portion is no more than one or two pages or no more than one per cent of the total number of pages in a literary or dramatic work if there are more than 200 pages.

(65) For a work in electronic form:

- a. if paginated an insubstantial portion is one or two pages of a literary or dramatic work or 1 per cent of pages if more than 200 pages; or
- b. if not paginated an insubstantial portion is no more than one per cent of the words in the work; but
- c. it is not permissible to copy or communicate passages from different parts of the work in order to make up the one or two pages or one per cent of the words. Material which is copied must appear consecutively.

(66) A period of 14 calendar days must elapse before another insubstantial portion of the same work can be copied in reliance on this provision.

(67) If an insubstantial portion of a work is made accessible via WebCT, it must be taken down before another insubstantial portion of the same work is made accessible.

(68) If insubstantial portions of a work are used, appropriate attribution must be given.

(69) This exception does not apply to artistic works or musical works.

Part G - Fair Dealing

(70) Fair Dealing exceptions in the [Copyright Act](#) are part of the balance between the rights of copyright owners and copyright users. The fair dealing provisions that are relevant to UWS are:

- a. Section 40 — 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;
- b. Section 41 — 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 criticism or review;
- c. Section 41A - 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 parody or satire;
- d. Section 103A — fair dealing with an audio-visual item for the purpose of criticism or review;
- e. Section 103AA -fair dealing with an audio-visual item for the purpose of parody or satire; and
- f. Section 103C — fair dealing with an audio-visual item for the purpose of research or study.
 - i. Note - an audio-visual item is a sound recording, a film a sound broadcast or television broadcast.

(71) When using a fair dealing exception the individual is responsible for making a determination, in accordance with the relevant provision of the [Copyright Act](#), as to whether the exception does in fact apply. In reaching this determination it is critical that the individual ensures that the material is being used for the purpose of research or study or criticism or review and that the dealing is fair.

(72) The Fair Dealing Exceptions must not be used to make multiple copies of third party copyright material for teaching purposes and or to make the material accessible via WebCT or other UWS School websites.

Literary, Musical or Dramatic Works

(73) In using the above fair dealing exceptions [refer clause (67) a, b and c] the dealing must be:

- a. either for the purpose of research or study; and
- b. fair, as defined by the Fairness Test.

The Fairness Test

(74) The copying of a literary, musical or dramatic work for the purpose of research or study is considered fair if no more than a reasonable portion (see Table 1 below) is copied. If the portion copied will exceed that which is considered reasonable, or if it is to be used in relation to criticism or review or parody or satire, additional considerations as set out under Audio Visual and Other Works must be considered.

(75) For the copying of journal articles, it is now permissible to copy more than one article from a single journal issue if the articles relate to the same research or course of study.

Table 1 - Reasonable Portion

Work or adaptation	Amount that is reasonable portion
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.	10 per cent of the number of pages in the edition; or if the work or adaptation is divided into chapter - a single chapter.
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.	10 per cent of the number of words in the work or adaptation; or if the work or adaptation is divided into chapters — a single chapter.

Audio Visual and Other Works

(76) When dealing with Audio-visual items or works where the above limits do not apply, the question of whether the dealing is fair will depend on the circumstances of the copying and the consideration of the following factors:

- a. The purpose and character of the dealing;
- b. The nature of the work/adaptation/audio-visual item;
- c. The possibility of obtaining the work/adaptation/audio-visual item 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/adaptation/audio-visual item; and
- e. In a case where part only of the work/adaptation/audio-visual item is copied - the amount and substantiality of the part copied taken in relation to the whole item.

(77) When dealing with material for the purpose of criticism or review:

- a. sufficient acknowledgement must be made to the work/adaptation/audio-visual item which is copied; and
- b. the factors in each instance of copying will determine its fairness.

(78) When dealing with material for the purpose of parody or satire requires:

- a. that the use for the purpose of parody or satire is a fair dealing can be demonstrated;
- b. that the use is "fair"; and
- c. that the use should not be unfair in its effects on the copyright holder.

Part H - New 'Special Purposes' Exception

(79) The [Copyright Amendment Act 2006](#) introduced a new "special purposes" free exception in Section 200AB of the Act. The new exception resulted from a Government review of the fair dealing exceptions. It is not a general purpose flexible exception, but rather applies to certain groups only, including educational institutions. The exception is intended to be relied on by institutions, not individuals. It should be noted that Australian courts have not, to date, been required to give any consideration to what the words of the three-step test mean. It is therefore likely to be some time before anything like a clear consensus emerges as to the circumstances in which this new exception applies.

(80) Before using this exception staff must seek the advice of the Copyright Officer.

(81) Before relying on this exception, the following test must be applied.

Special Purpose Exception Test

(82) The special purpose exception cannot be relied on in circumstances where another exception in the [Copyright Act](#) could be relied on in respect of the use in question. In addition, to rely on the special purpose exception the copy must be:

- a. made by or on behalf of UWS;
- b. used for the purpose of giving educational instruction; and
- c. not be made partly for the purpose of UWS obtaining a commercial advantage or profit.

(83) Further to clause (79), the intended use must:

- a. amount to a special case;

- b. not conflict with a normal exploitation of the work/subject matter; and
- c. not unreasonably prejudice the legitimate interests of the owner of copyright.

Part I - Moral Rights

(84) Moral rights provisions are contained in Part IX, [Copyright Act](#), 1968. Moral Rights are:

- a. the right of an author or artist to be identified with his or her works — known as the right of attribution; and
- b. the right to object to alteration or other derogatory treatment of the work that would be prejudicial to the author or artist's honour or reputation — known as the right of integrity.

(85) Moral rights apply to all works, except films, existing on 21 December 2000 and which are still protected by copyright, and to all works including films created after that date.

(86) Under the right of attribution, the creator's right to recognition as creator of a work consists of four sub-rights:

- a. to be known as the creator of a work;
- b. to prevent others from claiming to be the creator of a work;
- c. to prevent the false attribution of works to the creator;
- d. to prevent attribution to the creator of unauthorized altered versions of a work.

(87) The right of integrity is the creator's right:

- a. to object to derogatory treatment of a work, and
- b. covers both changes made to the work itself (i.e. distortion, mutilation or other modification of the work); and
- c. the manner in which the work is presented.

(88) UWS staff must recognise and be aware of:

- a. the right of fair attribution or authorship/creation;
- b. the need to protect the reputation of an author or creator and;
- c. give an opportunity for the creator to be involved in the final outcome resulting from their creative efforts.

(89) The name/s of the author/creator of literary, dramatic, musical and artistic works, sound recordings and cinematographic films must be clearly and reasonably prominently identified on each copy of a work which is made available to students.

Part J - Copyright and Students with Disabilities

(90) The new special purpose exception contained in s 200AB (Clause 69) can be relied upon in respect of uses made by or on behalf of a person with a disability in certain circumstances. These circumstances are:

- a. that the disability is one that causes difficulty in reading, viewing or hearing a work etc in a particular form;
- b. that the use in question is made for the purpose of the person obtaining a reproduction of the work etc in another form, or with a feature, that reduces that difficulty;
- c. that the use is not made partly for the purpose of obtaining a commercial advantage or profit; and
- d. that the "three-step criteria" and the "no other exception criteria" discussed above in s 7.2 are also complied with.

(91) Section 135ZP, Part VB Licence, [Copyright Act](#) allows UWS:

- a. to make a sound recording of a work in order to assist those with print disabilities; or
- b. to copy or communicate the whole or part of a literary or dramatic work by making and/or communicating a Braille version, a large-print version, a photographic version or an electronic version of the work in certain circumstances; provided that
- c. a reasonable investigation has been conducted and it has been determined that no new copy of such a version of the work can be obtained within a reasonable time at an ordinary commercial price.

(92) Section 135ZQ, [Copyright Act](#) allows UWS to make a "relevant reproduction" or "relevant communication" of the whole or part of a work for the sole purpose of making a Braille version, a large-print version, a photographic version or an electronic version for the purpose of assisting those with a print disability.

(93) Refer to Part B for copying and communicating third party copyright material from literary and dramatic works.

(94) If further advice is required regarding copyright and students with disabilities please contact the Copyright Officer.

Part K - Seeking Copyright Permission

(95) Written permission must be obtained from the holder of copyright, if the use of materials:

- a. falls outside the provisions and limits of the Part VA and Part VB Statutory Licences and the Music Licence;
- b. is not for educational purposes, or
- c. is for a wider public audience and/or for commercial purposes.

(96) If you directly seek permission from the owner of the copyright, a copy of the written permission to use the material must be forwarded to the Copyright Officer.

(97) Contact the Copyright Officer if assistance is required in obtaining permission to use material.

(98) The material must not be used unless written permission has been obtained.

Part L - Designated Representative (Copyright)

(99) The role of the UWS Designated Representative is to receive notifications and notices from third parties in relation to alleged copyright infringement. Details of the Designated Representative and an Infringing Copyright Material Notice are located on the University's [Copyright website](#).

(100) UWS is committed to a timely and effective response to complaints, notifications and reports of alleged copyright infringements and will, in accordance with the following procedures, remove or suppress content which is or is claimed be infringing copyright.

(101) UWS may impose a range of appropriate sanctions on individuals and or groups who contravene usage terms as set out in the: [IT Acceptable Use of Resources Policy](#), [Email Policy](#), [Intellectual Property Policy](#), [Misconduct - Student Non-Academic Policy](#), [Mobile Telephone Policy](#), [Web Publishing Policy](#), and/or [Workplace Surveillance Policy](#).

Dealing with a Copyright Infringement Claims Notice

(102) Direct notification of copyright infringement claims may be sent to the UWS Designated Representative in writing using. Written notifications will be accepted regardless of whether they are lodged via email, fax, or hard copy (i.e. post).

(103) Upon receipt of copyright infringement claims, complaints and demands, the Designated Representative will

verify the copyright infringement within 5 working days of receiving the notification.

(104) The matter will be referred to the appropriate UWS Senior Officer to expeditiously enable the removal or suppression of the alleged infringing copyright material.

(105) After the removal or suppression of the alleged infringing material, the matter will be properly assessed to ascertain if:

- a. hosting or linking to the material should be continued; and/or
- b. the notification of infringement should be disputed.

(106) When determining whether to dispute a notification, consideration will be given to whether the alleged copyright infringing material was used pursuant to an express or a statutory licence or an exception under the [Copyright Act, 1968](#).

(107) If the material is deemed not to be an infringement, the material will be restored and the complainant will be informed. If the material is deemed to be an infringement, the material will be permanently removed or suppressed and the copyright holder notified.

(108) Regardless of the outcome, preservation copies of the files which are subject of the infringement claim and any related records must be retained.

(109) If required, the appropriate UWS Senior Officer will commence relevant disciplinary proceedings or apply appropriate sanctions in accordance with UWS policies.

(110) UWS Senior Officers will determine further actions if a disputed claim cannot be resolved.

Section 5 - Guidelines

Part M - What is Copyright?

(111) Copyright in Australia is governed by the [Copyright Act, 1968](#) ("the Act"). The Act protects copyright in literary, dramatic, musical and artistic works, and "subject matter other than works" (films, broadcasts, video and sound recordings and published editions). For a work to receive copyright protection it must be "original" and must "be reduced to a material form". From 1st January 2005, the term of copyright protection was extended from life of the author plus 50 years to life of the author plus 70 years.

(112) The Act gives the copyright owner a bundle of exclusive rights. The rights are dependent on the type of work or subject matter involved. The exclusive rights in literary, dramatic or musical works are to:

- a. reproduce the work in a material form;
- b. publish the work;
- c. perform the work in public;
- d. communicate the work to the public;
- e. make an adaptation of the work; and
- f. do any of the above in relation to an adaptation of the work.

(113) The exclusive rights in artistic works are more limited, and consist of the rights to:

- a. reproduce the work in material form;
- b. publish the work; and

c. communicate the work to the public.

(114) For UWS, the two most relevant exclusive rights are:

- a. the reproduction right (copying print and graphic material or a broadcast); and
- b. the communication right (making third party copyright material accessible via WebCT or sending a copy via email or other technological means).

(115) Copyright laws are intended to provide a balance between encouraging and rewarding creators and providing reasonable access by users to copyright material.

(116) The [Copyright Act, 1968](#) has provisions that allow the use of copyright material for 'educational purposes' and for purposes such as research or study and criticism or review without requiring copyright permission. 'Educational purposes' include:

- a. use to teach students;
- b. making the copy available to students, or communicating to students, as part of a course of study;
- c. retention in the University library or elsewhere (by a staff member) as a teaching resource.

(117) Third party Copyright Material refers to material where the copyright for the material is not held by UWS.

Part N - Copyright Collecting Societies

(118) AMCOS

(119) AMCOS administers authorisations for reproduction of musical works. AMCOS also provides guidelines on usage of print music.

(120) APRA

(121) APRA provides licenses for the broadcast of and public performance of copyright music and its transmission to cable service subscribers.

(122) Australian Copyright Council

(123) An independent, non-profit organisation which offers a variety of publications on copyright matters.

Copyright Agency Limited

(124) CAL administers the educational copying PartVB statutory licensing scheme.

(125) Phonographic Performance Company of Australia Limited

(126) Administers the licensing arrangements with regard to performance and broadcasting rights in sound recordings.

(127) Screen rights

(128) Screen rights administer the PartVA Statutory Licence scheme that allows the copying of TV and radio broadcasts for educational purposes.

VI\$COPY

(129) Copyright collecting society represents the interests of illustrators, designers, photographers, sculptors,

craftspeople, printmakers and indigenous artists across Australia.

Status and Details

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Unit Head	Fiona Salisbury Executive Director, Library Services 98525924
Author	Frank Hill 98525932
Enquiries Contact	Frank Hill Copyright Officer 98525932