



## Permitted Educational Use of Artistic Work

There are a number of provisions in the Copyright, Designs and Patents Act 1988 (as amended) dealing with the use of artistic copyright works in an educational context. As a result of these provisions there are certain educational uses of the works which will not be an infringement of copyright. The “fair dealing” provisions (see Fact Sheet 26) permit limited use of artistic copyright works for the purposes of research or private study.

There are also specific exclusions in the Copyright and Related Rights Regulations 1996 allowing educational establishments to lend copies of, inter alia, artistic works without infringing the new lending right (see Fact Sheet 21). The 1988 Act contains the following additional provisions relating to educational use.

### Copying in the course of instruction or preparation for instruction

There will be no infringement of copyright in an artistic work if a copy is made in the course of instruction or preparation of instruction, provided that the copying is done either by the person giving or receiving that instruction and that it is not done by means of a “reprographic process”. This is intended to exclude the use of appliances for making multiple copies such as photocopiers. Further, there will be no infringement of copyright where the artistic work is used for the purposes of an examination. In those circumstances there is no prohibition on reprographic copying. It would however be an infringement of copyright to go on and sell, hire or to offer to do those things with copies made in accordance with these provisions.

### Recording of broadcast or cable programmes by educational establishments

Copies or recordings of broadcasts or cable programmes may be made by or on behalf of educational establishments, provided they are made for the educational purposes of the establishment. In those circumstances the educational establishment would infringe neither the broadcasts or cable programmes nor any underlying artistic works. However, these provisions are of limited application since they do not apply where a statutory licensing scheme is in operation. Such a scheme is in operation and is administered by ERA. The ERA Scheme covers artistic works administered by DACS. Again, any subsequent dealing with copies made under these provisions would not be permissible.

Copying and supply of copies by librarians and archivists The 1988 Act also allows librarians and archivists in certain prescribed libraries and archives to do certain specified acts in relation to artistic copyright works without infringing the copyright. However these provisions only apply to artistic works in so far as they are “illustrations” accompanying other literary, dramatic or musical works.

The permitted acts for librarians include making and supplying of a copy of an article in a periodical and copies of other published works without infringing the copyright in any accompanying illustrations. Librarians are not permitted to supply copies of articles or published works in these circumstances unless they are satisfied that the requirements of the person they are supplying are not related to those of any other person. The libraries able to take advantage of these provisions may be broadly speaking educational and governmental libraries which are not run for profit. Librarians or archivists in all UK libraries or archives may also make and supply copies of whole or part of certain unpublished literary dramatic or musical works without infringing copyright in those works or in any accompanying illustrations. However, this will not be permitted where the librarian or archivist knows or ought to know that the copyright owner of the literary dramatic or musical work in question has prohibited copying of the work.

**In all these cases the librarian or archivist is only permitted to make and supply copies on the following basis:**

- that he is satisfied that the copies are being supplied to a person who requires them for the purposes of research or private study and who will not use them for other purposes;
- that the quantity of copies supplied to any one person is limited;
- in the case of periodicals to no more than one copy of an article and no more than one article from the same issue of a periodical;
- in the case of published material to no more than one copy of the same material and in any event no more than a reasonable proportion of any work;
- in the case of unpublished material to no more than one copy of the same material;
- that the person being supplied with a copy pays a sum not less than the cost attributable to their production.

There are also provisions allowing material to be copied and supplied between certain libraries and archives. Librarians in any UK library may, subject to certain conditions, supply copies of a periodical article or the whole or part of published editions of literary, dramatic or musical works to other specified libraries without infringing, inter alia, the accompanying illustrations, although the right to copy published editions will not apply where the librarian knows or could by reasonable enquiry discover the identity of the person entitled to authorise such copying.

Librarians and archivists in all UK libraries and archives are also permitted to supply copies of items held in the permanent collections of libraries or archives for the purpose of preserving or replacing them or replacing an item in the permanent collection of certain such libraries or archive without infringing the copyright in any accompanying illustrations. However, this can only be done where it is not reasonably practicable to purchase copies of those items for these purposes.

The libraries and archives which may be supplied with copies under these provisions must not be run for profit and are broadly limited to UK educational and governmental libraries not run for profit and certain overseas educational libraries and all UK archives.

The content of this fact sheet is of benefit interest only and is not an exhaustive explanation of copyright protection and remedies for infringement. This fact sheet is not intended to apply to specific circumstances. The contents of this fact sheet should not therefore be regarded as constituting legal or other advice and should not be relied upon as such. In relation to any particular problem that you may have, you are advised to seek specific and specialist advice.