

## **COPYRIGHT AND LICENCES POLICY**

### **PURPOSE:**

This school is governed by a Copyright Licensing Agreement and the Law with respect to the use of literary, dramatic, musical or artistic works, sound recordings, films, broadcasts and cable television programmes. **Compliance is essential.**

### **OBJECTIVES:**

To put in place copyright procedures which are fully compliant to the Licensing Agreement and the law:

- The definition of 'literary works' includes computer programmes, and anything written, spoken or sung.
- The definition of 'dramatic works' includes dance and mime.
- 'Artistic works' refers to visual art and 'musical works' to music excluding any dramatic or literary content.
- The legislation governing copyright is the Copyright Act 1994 which came into effect on 1 January 1995.

### **ACTS PERMITTED IN RELATION TO COPYRIGHT WORKS**

Sections 44-49 of the Act describe acts permitted in relation to copyright works without infringing copyright.

#### **RESEARCH OR PRIVATE STUDY (ie a teacher's own use)**

Under the old Act "fair dealing" with a literary, dramatic, musical or artistic work did not constitute an infringement of copyright provided that:

- it was for the purposes of research or private study;
- it was for the purposes of criticism or review, whether of that work or of another work, and was accompanied by a sufficient acknowledgement.

Similarly, under the new Act, "fair dealing" with a work for the purposes of research or private study does not infringe copyright (s43) provided only a single copy is produced.

#### **OTHER EDUCATIONAL PURPOSES**

Section 44 of the new Act is specifically aimed at educational establishments. Subsection (1) permits copying, by means of a reprographic process (eg photocopying), of the whole or part of a literary, dramatic, musical or artistic work, or a published edition, provided that:

- the copying is done in the course of instruction; and
- the copying is done by a person giving a lesson at an educational establishment; and
- no more than one copy is made on any one occasion.

Subsection (2) permits the production of multiple copies, where the copying is **not** done by means of a reprographic process (ie by typing a new copy), of the whole or part of a literary, dramatic, musical, or artistic work on any one occasion, provided that:

- the copying is done in the course of instruction or afterwards; and

- the copying is done by a person giving a lesson at an educational establishment, or by a person receiving the lesson.

Subsection (3) is covered by license agreement and permits licensed educational institutions to copy:

- up to 10% of one chapter of a work;
- up to 15 pages of all or part of a single work in a collection of works;
- one or part of one article from a periodical publication or additional articles if they are on the same subject;
- a complete work if the work is unavailable in sufficient quantity within a reasonable time at a normal price (subject to prior written approval);
- an artistic work (such as an illustration) published in conjunction with another work and produced as part of a reproduction of that work.

Copies can be made for each student and teacher involved in the educational course each year plus a 10% margin for spare copies.

Provided that:

- copying is done for an educational purpose; and
- no charges are made for the supply of a copy to any student; and
- **after 31 December 1997 the copying is of no more than 3% of the work or 3 pages (whichever is the greater).**

PROVIDED that no more than 50% of the work may be copied, and that no part of any work copied (either in whole or in part) under subsection (3), may be copied again within 14 days (subsection 6).

### **SCHOOL PUBLICATIONS**

Section 46 allows copying under certain conditions (for example, where there is a sufficient acknowledgment) or short passages from published works for use in a collection intended for use in an educational establishment, provided that:

- it is so described in its title and advertisements; and
- there is sufficient acknowledgment; and
- no more than two passages from the same author are used within any period of 5 years; and
- it consists mainly of material in which:
  - there is no copyright; or
  - copyright is with the Crown; or
  - copyright is owned by the publisher.

### **PERFORMANCES**

Section 32 is covered by license and permits public performance of literary, dramatic or musical works and the public showing of a sound recording, film, broadcast or cable programme.

This includes:

- concerts on the school premises by pupils or otherwise;
- performances by school groups at multi-school festivals;
- discos and socials at a school;
- aerobics sessions at a school;

AND so on.

The only exception is the performance of grand rights musicals such as *Jesus Christ Superstar*, *Les Miserables*, etc.

### **PRINT MUSIC**

The print music licence allows the copying of print music owned by the school for the educational purposes of the students of that school. Copying within the conditions of the agreement bypasses the need for teachers to contact copyright owners for permission to make photocopies for their students. Music may be copied under the licence for use in class or for use in rehearsal or performances by schools band/orchestras, school choirs or other school ensembles.

### **RECORDINGS**

Section 45 permits copying of films and sound recordings where the copying is made by teacher or student in the course of:

- lessons on film, or soundtrack production; or
- language tuition; or
- teaching by correspondence

AND no charge is made for the supply of the copy.

Section 48 allows the recording of a broadcast or cable programme, or a copy of such a recording, to be made on or behalf of an education establishment for educational purposes.

The recording described will not be permitted if licences are available under a "licensing scheme" and the educational establishment knew of that fact. No such licences are available at present.

**No commercially hired video recording or video recording provided by a video hire shop are permitted to be shown in the school. Video recordings purchased by the school however, may be shown to pupils in the course of a lesson. They may not be shown as part of a public viewing unless with the approval of the author or copyright owner. National Film Library films and videos may be used in a learning context within the school.**

### **EXAMINATIONS**

Copyright is not infringed by anything done for the purposes of an examination, whether by way of setting the questions, communicating the questions to candidates, or answering questions (s49).

## **LIBRARIANS**

Sections 50 to 56 describe acts that may be done by librarians of prescribed libraries in relation to copyright works without infringing copyright. Prescribed libraries include libraries in educational establishments.

Section 51 allows a librarian to make a copy of a reasonable proportion of a literary, dramatic, or musical work (but not a computer programme or an article in a periodical), for supply to any person provided that:

- the person is not supplied on the same occasion with more than one copy of the same material; and
- where payment is required for the copying, the payment does not exceed the total cost of copying plus a reasonable contribution to expenses.

Section 52 allows the copying by a librarian of the whole of an article in a periodical for supply to any person, provided that:

- the person is not supplied on the same occasion with more than one copy of the same article; and
- the person is not supplied on the same occasion with copies of more than one article in the same issue of a periodical, unless the copies all relate to the same subject matter; and
- if payment is required for the copying, the payment does not exceed the total cost of copying plus a reasonable contribution to expenses.

**NOTE** that a person who obtains copies from a librarian under Sections 51 or 52 may use the copy only for the purposes of research or private study.

Section 54 allows the supply by a prescribed library to another prescribed library of a copy of a literary, dramatic or musical work where that work is the whole or part of a **book**, provided that:

- the library to whom the work is supplied has been unable to obtain it within the 6 months preceding the supply; and
- the copyright owner is remunerated reasonably.

The section goes on to describe a number of rights the copyright owner has regarding inspection of the copy.

Section 55 permits copying by a librarian in a prescribed library for the purposes of preserving or replacing copies of works in a library collection. Copyright in the work will not be infringed provided that it is not reasonably practicable to purchase a copy of the item in question.

## **COMPUTER SOFTWARE**

- As the term "literary work" specifically includes computer programmes (s2), it is clear that any copying which cannot be brought within the exceptions outlined above will be breach of copyright.

- Sections 79 and 80 of the 1994 Act set out certain acts that may be done in relation to computer programmes without infringing copyright.

Section 80 permits the making of a backup copy of a computer programme provided that:

- it has not been prohibited by the owner of the copyright; and
- the copy is made by or on behalf of the lawful user of the original copy; and
- the copy is made solely for the purpose of being used by or on behalf of the lawful user of the original copy either:
  - instead of the original copy in order to preserve that original copy for; or
  - use if the copy is lost, destroyed or rendered unusable, or
  - if the original copy is lost, destroyed or rendered unusable.

The phrase "lawful user" in relation to a computer programme is defined in section 2 as meaning *"a person who has a right to use the programme, whether under a copyright licence or otherwise"*.

It is made clear in subsection (3) that there will be breach of copyright if the original is not licensed to the person making the copy. In other words School B could not use a backup of a programme licensed to School A.

### **CONCLUSION:**

Many of the present generation of teachers may have unwittingly grown up with illegal reproduction practices such as producing large sets of class materials. As a school, all staff are expected to comply with the provisions of the Copyright Act 1994 and failure to do so may result in expensive litigation.