

More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au

What is copyright?

Australian law recognises that individuals have the right to protect the moral and economic interests arising from their creative works. Copyright is a form of intellectual property protection for a variety of literary, musical and artistic endeavours. It is not ideas but the way ideas are expressed that is protected by copyright law.

Copyright is intended to protect original works from being used without the agreement of the owner and to provide an incentive for creators and producers to continue to create new materials. In Australia, copyright law is contained in the *Copyright Act 1968* (the Act), and in court decisions which have interpreted the provisions of the Act. The law gives owners of copyright exclusive rights to do certain things with their material.

How does copyright protect music?

Copyright law in Australia protects musical works, any accompanying lyrics, the published edition and sound recordings.

Music is protected as soon as it is fixed in a material form, for example written down or recorded.

The copyright owner controls the right to reproduce (copy or record) the work, to perform the work, to arrange or transcribe the work, and to translate the lyrics. Copyright owners also have the right to communicate to the public (including broadcasting, transmission and making available to the public) and the right to publish.

For a sound recording of a musical work, the rights include copying that recording and playing it in public.

How do I know if something is protected by copyright?

- **Music**
Copyright in music lasts for 70 years after the death of the composer. In other words, if the composer is alive or died less than 70 years ago, the musical work is in copyright. Examples include Stravinsky, who died in 1971, and Shostakovich, who died in 1975.
- **Lyrics**
Copyright in lyrics also lasts 70 years after the death of the lyricist. If you are copying music that also includes lyrics, you need to consider the copyright in both the music and the words.
- **Co-writers**
If a work is co-written, copyright applies until 70 years after the last of the co-writers has died. An example of co-writing is a collaboration between a composer and a lyricist.
- **Translation of lyrics**
Recent translations of lyrics that are in the public domain (i.e. out of copyright) are protected separately from copyright in the original work. The copyright in the translation lasts until 70 years after the death of the translator.
- **Arrangements**
The arrangement of music that is under copyright is protected separately from the music itself. If it is a recent arrangement of a public domain work, then the arrangement itself may be protected even though the original work is not. Protection in this instance depends on whether there is a sufficient degree of



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originality in the arrangement to constitute separate copyright protection in the arrangement. Copyright lasts for the life of the arranger plus 70 years after their death.

- **Published edition**

The published edition or typesetting of a work is protected for 25 years from the date of publication. Educational Institutions do not infringe published edition copyright if they are copying under Part VB of the Act. There is no published edition right for works in electronic format.

- **Editing**

Separate copyright can exist in the editing if there is a sufficient degree of originality which could be considered independently of the original work. An example of this would be if a musicologist had transcribed a piece of music from plainsong notation (written on four lines and not on our modern five-line staves), into modern notation. The degree of skill and musical interpretation necessary to do such a transcription would probably mean that the editor's extensive work would have copyright protection separate to the original work.

An example of editing which would probably be sufficient for copyright protection would be that involved in updating a work by J.S. Bach. It was the practice of Baroque composers such as Bach not to write many (if any) dynamic markings on the scores of the music. Similarly, fingering, bowing, articulation, ornamentation and harmonies were usually left to the determination of the performer. It is therefore common to see versions of these works where the dynamics, tempo, and articulation markings are created entirely by the editor.

Again, copyright in that edited version of the work would last for the life of the editor plus 70 years after their death.

- **Unpublished works**

Copyright lasts for 70 years until after the work is first performed, published, or broadcast. If the work is never performed, published or broadcast it remains in copyright forever.

What if the piece was written a long time ago?

The copyright in the various translations, arrangements and editions of a work needs to be considered when copying print music. Even though the original music and/or lyrics may be out of copyright, if the arranger, translator or editor is still alive or died less than 70 years ago, or the work was published less than 25 years ago, the work may still be in copyright.

If any copyrights still apply to the piece of print music you must get the permission of the copyright owner (usually through the music publisher) before copying it. The Australasian Mechanical Copyright Owners' Society (AMCOS) provides contact details for the relevant copyright owners (contact details for AMCOS are at the end of this information sheet).

Are there exceptions to this?

There are several special exceptions where copying can be done without permission.

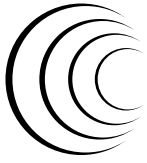
a. Fair dealing

The Act contains provisions referred to as 'fair dealing' provisions. These allow copying of up to 10% or one chapter of a work for the purposes of research and study.

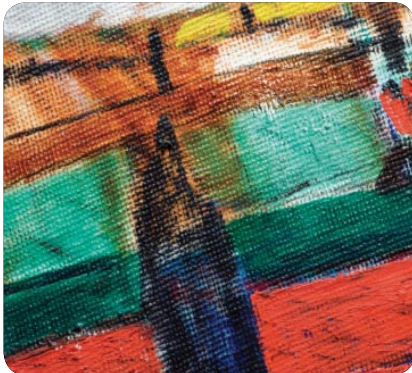
A musical work is a complete piece of music. In the case of a collection or anthology of music, each individual piece in the collection is a separate work. This means that only 10% of an individual piece of music may be copied under these provisions.

On the other hand, music tutorial or theory books (such as a book on learning to play the guitar) are considered to be one complete work. Under the fair dealing provisions up to 10% or one chapter of the entire book may be copied.

The fair dealing provisions do not cover any other musical materials such as arrangements or translations. It also doesn't cover copying for performance purposes.



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However, copies of music and lyrics can be made by hand by a teacher or student, but multiple copies of this transcription can't be made.

b. Copying by educational institutions

The Act also provides a licence for educational institutions to copy portions of works, including portions of musical works.

This licence, referred to as the Statutory Educational Licence, is administered by Copyright Agency Limited (CAL). The licence usually allows copying of up to 10% or one chapter of a work, or 10% of the words if it is in electronic form. A licence fee is paid for this copying.

As with the fair dealing provisions above, a complete musical piece is considered to be a stand-alone work. An entire musical work may only be copied if it is not published separately or is otherwise unavailable for purchase.

Additional licence for schools

AMCOS offers an additional licence to primary and secondary schools. This licence extends the copying provisions set out in the Statutory Educational Licence and allows schools to photocopy a whole work, both in sheet music form and in collections of music. This licence allows schools to make a limited number of copies of each original purchased by the school or a member of staff. The copies can only be made for educational purposes. For more information contact AMCOS.

All other educational institutions need to contact the music publisher directly for permission to copy entire musical works. Contact AMCOS for details of music publishers.

Copying by religious organisations

CAL offers religious organisations a licence that allows them to legally and cost-effectively copy works associated with their activities. While the CAL licence includes the copying of lyrics it does not cover the copying of the music itself. Permission must be gained from the music publishers to copy the music. There is no single organisation offering a blanket licence for the copying of all musical works. There are, however, several organisations which license the copying of the music of their members for use by religious organisations – contact details are at the end of this information sheet.

Copying by private music teachers and their students

Copying by private music teachers and their students is not covered by any licence and, unless the copying is covered by the special provisions outlined above, cannot be done without the permission of the copyright owner.

Arrangements and translations of music and lyrics

If you wish to arrange someone else's music or translate someone else's lyrics, you need to check whether the work is still in copyright. If so, you need to get permission to arrange that work unless the special provisions outlined above apply.

More information

Copying print music:

AMCOS - Australasian Mechanical Copyright Owners Society

Tel: +612 9935 7900

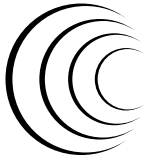
Website: www.apra-amcos.com.au

Performing music:

APRA - Australasian Performing Right Association

Tel: +612 9935 7900

Website: www.apra-amcos.com.au



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CCLI - Christian Copyright Licensing International

Freecall: 1800 635 474

Website: www.ccli.com

Word of Life International

Tel: +617 5526 0200

LicenSing

Freecall: 1800 811 311

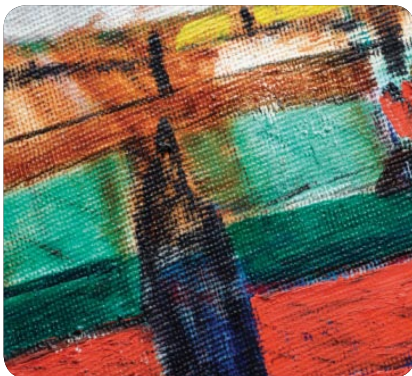
Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works.

Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.



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